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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1886.

No. 1307. ~~575~~ ~~557~~ 245

MRS. ELIZABETH NORMAN AND JAMES NORMAN, HER HUSBAND, AND EUNICE KING, APPELLANTS,

vs.

JOHN A. BUCKNER, E. J. DELONY AND F. F. MONTGOMERY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF LOUISIANA.

FILED DECEMBER 11, 1886.

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INDEX.

	Original.	Print.
Caption	*a*	1
Transcript from State court	*b*	1
Caption	*b*	1
Petition	*b*	1
Citation to Hall	14	7
Sheriff's return	15	8
Citation to Buckner	15	8
Sheriff's return	16	8
Citation to Montgomery	17	9
Sheriff's return	17	9
Citation to Delony	18	10
Sheriff's return	18	10
Papers and documents in the succession of W. D. King	19	10
Petition, &c.	19	10
Inventory, &c.	20	11
Letters	54	33
Bond	55	33
Oath	56	34
Petition and order to execute notes, &c.	57	34
Petition and order to sell	59	36
Motion on curator to file account	60	36

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	Original.	Print.
Order to file provisional account	61	37
Rule to file account	63	37
Rule for contempt	64	38
Answer to rule for account	67	39
Petition to sell property	69	40
Order to sell	71	42
Answer to rule for contempt	72	42
Exceptions to rule for contempt	77	44
Answers to rule for contempt	78	44
Account of curator	80	45
Order as to appeal	87	50
Writ of sale	89	51
Return on writ of sale	89	51
Request for publication of provisional account, &c.	92	53
Notice of filing account	93	53
Appointment of new judge	97	56
Dismissal	97	56
Petition for order to sell property, &c.	97	57
Writ of sale	102	58
Request for publication of final account	105	60
Notice of final account	107	61
Final account	108	61
Deed of King *et al.* to Hall	110	63
Exhibit I—Lands reserved by King's heirs	116	66
Proceedings in suit of Montgomery *et al. vs.* Hall *et al.*	117	67
Petition	117	67
Order appointing new judge	125	70
Order granting injunction	125	70
Injunction bond	126	71
Injunction	128	71
Citations	130	72
Agreement that case be decided at Chambers	134	74
Judgment	135	75
Discontinuance	135	75
Proceedings in suit of Buckner *vs.* Hall, executor	136	75
Petition to foreclose mortgage	136	75
Order on petition	137	76
Exhibits A and B—Notes, &c.	139	77
Proceedings in suit of Aivey & Co. *vs.* Hall, executor	145	79
Petition	145	79
Order on petition	149	81
Exhibits A and B—Notes, &c.	151	82
Writ of sale	161	86
Sheriff's deed	167	89
Proceedings in suit of Davis *vs.* All the World	175	92
Petition	175	92
Order on petition	176	93
Monition	179	93
Opposition to homologation of sale by King's heirs	181	94
Judgment and order of appeal	183	95
Opinion on appeal	184	96
Proceedings in suit of Hays and Defee *vs.* All the World	190	99

	Original.	Print.
Petition	190	99
Order on petition	193	100
Monition	193	100
Opposition of heirs	195	101
Judgment and order of appeal	198	102
Judgment of district court	199	103
Judgment of circuit court of appeals	201	103
Proceedings in suit of Montgomery *et al. vs.* Hall, executor, *et al.*	203	104
Petition	203	104
Order on petition	209	106
Proceedings, &c., in the succession of Mrs. E. E. Hall	211	107
Petition for appointment as executor	211	107
Order on petition	212	108
Will of Mrs. E. E. Hall	213	108
Probate proceedings	215	109
Inventory	219	111
Petition that executor give bond	226	114
Order that executor give bond	231	116
Bond of executor	232	117
Petition of Egelly to be made executor	235	118
Order on petition	237	119
Petition of Hall, executor, for injunction	238	119
Injunction bond	247	123
Intervention of Buckner	249	124
Exception and answer to intervention	251	125
" " petition of Hall	252	125
Injunction dissolved	256	127
Appeal allowed	256	127
Judgment of district court	257	128
Appeal bond	258	128
Judgment of Supreme Court	259	129
Petition for removal	260	130
Bond for removal	261	131
New judge appointed	263	131
Clerk's certificate	263	131
Contents of record	265	132
Order for decree *pro confesso*	268	133
Order to set aside *pro confesso*	268	133
Answer of John A. Buckner	268	133
Replication to answer of Buckner	281	139
Interrogatories to Montgomery and Delony	282	139
" Eunice and Elizabeth King	287	142
Notice to file cross-interrogatories	294	144
Order enlarging time to take testimony	295	145
Petition and order for commission	296	145
Interrogatories to Belden *et al.*	297	146
" Montgomery and Delony	302	148
Cross-interrogatories	307	150
Notice to file cross-interrogatories	308	151
Demurrer of Montgomery	309	151
Petition and order for commission	311	152
Interrogatories to Hall	312	153

	Original.	Print.
Order enlarging time to take testimony	315	154
Interrogatories to Keene *et al.*	316	154
Petition and order for commission	319	155
Interrogatories to Wyly	321	156
" Buckner	326	158
Notice to file cross-interrogatories	331	161
Agreement of counsel as to evidence	332	161
Order extending time to take testimony	333	162
Order setting cause for hearing	333	162
" " " "	334	162
Order as to evidence	335	162
Answer of F. F. Montgomery	335	163
Exhibit IV—Affidavit of E. D. Farrar	341	165
Exhibit—Letter of Kennedy to Farrar, March 8, 1881	345	166
Motion to suppress testimony	347	167
Complainants' note of evidence	349	168
Defendants' note of evidence	350	168
Submission	352	169
Order for decree	353	170
Petition for rehearing	353	170
Decree	357	172
Motion to set aside decree	358	172
Order setting aside decree, &c.	360	173
Decree	360	173
Motion to tax costs	361	174
Order for appeal	361	174
Appeal bond	362	174
Complainants' testimony	365	176
Exhibit II—Testimony of Joseph M. Kennedy	366	176
Edw. J. Delony	373	180
S. H. Mobberly	381	183
Abraham Blum	387	186
A. G. Belden	391	188
F. F. Montgomery	403	192
Commissioner's certificate	409	194
Interrogatories to Montgomery and Delony	410	195
Testimony of F. F. Montgomery	417	197
Exhibit A—Statement with testimony of Dulony	424	201
Testimony of E. J. Delony	426	203
Commission to take testimony	438½	208
Exhibit III—Testimony of Mrs. Elizabeth Norman	439	208
Miss Eunice H. King	451	213
Exhibit A—Letter of Kennedy to Farrar	455	215
Interrogatories to Norman and King	457	215
Commission to take testimony	463	218
Exhibit V—Testimony of Chas. R. Egelly	465	218
Defendants' testimony	476	223
Exhibit "M"—Interrogatories to Keene *et al.*	476	223
Testimony of W. B. Keen	482	225
Martin Compton	484	227
E. W. Constant	486	227
T. T. Taylor	490	229

	Original.	Print.
Ehbibit "M"—Commission to take testimony	493	230
Exhibit "N"—Interrogatories to Buckner	494	230
Testimony of John A. Buckner	501	233
Commission to take testimony	509½	537
Exhibit "O"—Interrogatories to Wyly	510	237
Testimony of Wm. G. Wyly	516	240
Commission to take testimony	529	246
Citation to Buckner	530	246
" Montgomery	532	247
Certificate to record	534	248

a United States Circuit Court, Fifth Circuit, Western District of Louisiana.

HEIRS [OF] W. D. KING
vs.
BEN. E. HALL, Administrator, *et als.* } No. 94.

b STATE OF LOUISIANA,
Parish of East Carroll:

Eighth District Court.

Be it known and remembered that on the second day of February, A. D. 1885, Miss Eunice King, Mrs. E. J. L. Norman, and James M. Norman, husband of said Mrs. E. J. L. Norman, all heirs of the late W. D. King, dec'd, of this parish and State, filed in the office of the clerk of the eighth judicial district court of East Carroll, parish [of] Louisiana, by their attorney, Col. Wade R. Young, their petition, wherein they claim that for certain causes and reasons, as stated in their said petition, *that* Ben. E. Hall, as curator of the estate of W. D. King, and John A. Buckner, Field F. Montgomery, and *and* Edward J. Delony, sureties of said Ben. E. Hall, curator, are indebted unto them (the said heirs) in certain sums, all of which will appear more fully by reference to the petition of said heirs, which commences on the 1st page of the record of proceedings herein and the documents annexed to said petition as proof, and which are in the words and figures following, to wit:

Petition.

To the honorable the judge of the eighth district court for the parish of East Carroll:

Eunice H. King, a *feme sole*, and Mrs. Elizabeth King, wife of Thomas M. Norman, and Thomas M. Norman, her husband,
1 all residents and citizens of the State of Mississippi and county of Copiah, bring this their petition against Ben. E. Hall, in person and as representative of Lenora E. Hall, who is believed to be a resident and citizen of the State of Kentucky, and John A. Buckner, F. F. Montgomery, and E. J. Delony, all residents and citizens of the State of Louisiana and parish of East Carroll, and complain and say—

That they are the heirs-at-law and legal representatives of W. D. King, who died in the said State of Louisiana and parish of East Carroll Sept. 25th, 1877, intestate, leaving therein a large and valuable estate, consisting of property, real and personal, rights and credits, as shown by a copy of the inventory hereto annexed for reference and greater certainty of description and marked Exhibit "A."

That the said Ben. E. Hall applied for the administration of the succession of the said William D. King, and was duly appointed and qualified, with the said John A. Buckner and E. J. Delony, F. F. Montgomery & Leonora E. Hall as sureties on his bond, as shown by a duly certified copy of the proceedings hereto annexed for reference and marked Exhibit "B."

That on February —, 1878, complainants sold and conveyed to Leonora E. Hall, wife of said Ben. E. Hall, the one undivided half of the Mounds plantation, belonging to said dec'd, with the undivided half interest of said deceased in the personal property attached
2 thereto, and in the store thereon and claims, acs., bills receivable, shares in action, and rights and credits appertaining thereto, as shown by a duly certified copy of said act of sale and conveyance hereto annexed for reference and greater certainty of description and marked Exhibit "C."

That the price and consideration of said sale was the sum of $5,000.00, five thousand dollars, in cash and the assumpsit and payment by the ve-dees of all the debts of the succession; that complainants reserved to themselves, as they supposed, free of all debts and encumbrances whatsoever, the following-described lands, being the interest therein, as set out in the exhibit hereto annexed and filed herewith, marked "I."

That the said Leonora E. Hall died * * * 1879, and that said Ben. E. Hall was appointed and qualified as executor of the succession of his deceased wife, as will more fully appear from a copy of the mortuary proceedings hereto annexed for reference and marked Exhibit "D."

That said Ben. E. Hall was also instituted sole heir and universal legatee by the last will and testament of said dec'd; that shortly after the death of the said wife proceedings were instituted by T. L. Aivy & Co. and John A. Buckner, as mortgage creditors, to foreclose certain mortgages upon the said Mounds plantation, the property of the said dec'd, as will appear by the duly certified copies
3 of the proceedings hereto annexed for reference and marked Exhibit "E."

That on December 28th, 1880, the said Ben. E. Hall, who was at the same time administrator of the succession of W. D. King, dec'd, and executor and testamentary heir and universal legatee of his deceased wife, filed a pretended ac. of his administration of the succession of W. D. King, dec'd, setting forth that said succession was indebted in the sum of $2,139 *am* (*alsur*), and prayed for a sale of the property of the succession to pay debts; that the prayer of said petition was granted and a decree rendered thereon without any notice to complainants directing the sale of the property of the succession, and that the said Ben. E. Hall, in pursuance of said decree, sold the property, which complainants had reserved to themselves, and which they supposed to be free of all debts, claims, or encumbrances of any kind whatsoever, to pay debts due by himself as testamentary heir and legatee of his deceased wife, and which the said wife had bound and obligated herself to pay as a part of the purchase-price of the undivided half of the Mounds plantation.

That upon a monition by the purchasers of said property complainants made opposition, and said sales were avoided and set aside and the property restored to them; all of which will appear more fully from duly certified copies of the proceedings hereto annexed and marked Exhibit "F" and "G."

4 That for the purpose of annulling and avoiding said sales complainants were compelled to advance and did advance the sum of $1,200.00, twelve hundred dollars, to reimburse said purchasers; that pending all these proceedings complainants vainly and ineffectually strove to have said Ben. E. Hall render a final ac., close the succession, and put them in possession of the property reserved by them; that the Mounds plantation was finally offered for sale at the suits of T. L. Aivy & Co. *vs.* Ben. E. Hall, executor of Leonora E. Hall, and of John A. Buckner *vs.* Ben. E. Hall, executor of Leonora E. Hall, June 19th, 1880, and * * * a person of large means and perfectly reliable bid therefor the sum of $30,000.00, when the said Ben. E. Hall, instigated by the said John A. Buckner, well knowing that he was unable to pay any part of the purchase price, and with the intention to defeat the adjudication to the said bidder, bid therefore a larger sum, to wit, $31,000.00; that said Ben. E. Hall being unable to comply with his bid, the said property was again offered on June 21st, 1884, and sold and adjudicated to the said John A. Buckner for the price of $22,000.00, twenty-two thousand dollars.

That the succession of Leonora E. Hall being thus rendered insolvent and unable to pay the debts of the succession of W. D. King, assumed and undertaken to be paid by the said Leonora E.
5 Hall, vendee, as part of the purchase price of the undivided half of the Mounds plantation, and offering no terms to complainants for the payment of said debts, the said Ben. E. Hall again, without proceedings contradictorily with complainants and without notice to them of any kind whatsoever, obtained a decree for the sale of the property of the succession to pay debts — again caused the property reserved by complainants, and which they supposed to be free from any debts, claims, and encumbrances whatsoever, to be sold and adjudicated to one Isadore Newman for the price of $1,677.74, as will more fully appear from a duly certified copy of the proceedings hereto annexed for reference and marked Exhibit "H."

That said proceedings were not had contradictorily with complainants or with any one representing them, and that they had no notice of said proceedings and no knowledge thereof until they were finally consum-ated.

That said Ben. E. Hall has departed permanently from the State of Louisiana, leaving therein neither property, rights, or credits to which the jurisdiction of the court can attach, and without any final ac. of his administration, and, as complainants are informed and believe and charge, hopelessly insolvent, and without any property, rights, or credits of any kind whatsoever, either in the State or elsewhere.

Now, your complainants charge and aver that all these actings, doings, and pretences on the part of the said Ben. E. Hall
6 were in pursuance of "a scheme by the said John A. Buckner and the said Hall to acquire the ownership of the said Mounds plantation" at a less price, and to defeat the enforcement by complainants of the obligation of Leonora E. Hall to pay all the

debts of the estate of King, assumed and promised to be paid as a part of the purchase price of the undivided half of said Mounds plantation; that said succession of said King comprised a large and valuable estate, inventoried and appraised at the sum of $20,804.37, and that there were few or no debts; that the said Mounds plantation belonged jointly to said W. D. King and said Leonora E. Hall, who was the sister of the said John A. Buckner, and was well worth the sum of $40,000.00; that the said John A. Buckner was present and assisted at the sale and conveyance of the undivided half of said plantation to said Leonora E. Hall, and was fully informed and cognizant of the assumpsit by said vendee of all the debts of the succession of King, dec'd, as a part of the purchase price and of her obligations to pay said debts; that the lands reserved by complainants, although without a market value at that time, owing to the unsafe condition of the public levees on the Mississippi river and their consequent liability to overflow, were
7 intrinsically very valuable, and would have come into demand as soon as the works undertaken by the river commission afforded adequate protection from overflow, and were well worth the sum of ($10,000.00) ten thousand dollars; that at the death of the said Leonora E. Hall in ——, 1879, the said Ben. E. Hall, as individual heir and universal legatee, applied for and obtained the appointment of executor of her succession; that instead of paying the debts of the succession of W. D. King, as the testa- had bound and obligated herself to do, as a part of the purchase price of the undivided half of the property, the said Ben. E. Hall permitted the said John A. Buckner, in furtherance of the scheme to acquire the ownership of the Mounds plantation at a low price, and to render the succession of Leonora E. Hall insolvent, and to defeat the recourse of complainants for the payment of the debts of the succession of W. D. King, if any such debts there were to be paid, to institute executory proceedings at the suit of T. L. Aivey & Co. *vs.* Ben. E. Hall, ex'r, and John A. Buckner *vs.* Ben. E. Hall, ex'r, and to cause the said plantation to be seized and advertised for sale; that said proceedings were stayed by an injunction at the suit of Montgomery & Delony, pretending to be creditors of the estate of King, and that no sale of said property was made until the 21st day of June, 1884; that during this period from —— to June 21st, 1884, the said property,
8 although nominally *in custodia legis*, remained in the real and actual possession of the said John A. Buckner and the said Ben. E. Hall, and all the fruits and rents and revenues thereof were appropriated by them, and no account rendered to the sheriff or to any other person whatsoever,—well worth the sum of twenty thousand dollars; that pending the proceedings the said Ben. E. Hall, although aware that complainants had accepted the succession, and had sold and conveyed a part of the property to the said Leonora E. Hall, his wife, and had reserved to themselves a certain part thereof, as they believed, free from all debts or encumbrances of any kind whatsoever, and were prepared, if necessary, to advance money for the payment of any of the debts assumed by his said testatrix and

not paid by her, if any such debts there were, and without informing them of the existance of said debts, or notifying them of his inability to pay the same from the assetts of the successions of Leonora E. Hall or of King, or making them parties to the proceedings in any way, actually or constrictively, and without giving them any notice thereof in any way whatsoever, filed a provisional ac., pretending that the succession of W. D. King was indebted in the sum of $2,139.00 (about), and obtained a decree for the sale of property to pay debts, and caused the land reserved by complainants to
9 be sold at an entire sacrifice; that as soon as complainants were informed of the proceedings they made opposition to the monition of the purchasers of said lands, and caused the sales to be set aside and avoided and the lands to be restored to the succession upon their furnishing the sum of $1,200.00, twelve hundred dollars, to reimburse said purchasers.

That complainants vainly and ineffectually strove and endeavored to have the said Ben. E. Hall compelled to render a final ac. of his administration, and to close the succession in order that they might be put in possession of the property, but that said Hall, although repeatedly ordered to do so, and, in contempt of the authority of the probate court, persisted in his contumacy, and finally, without any notice to complainants, or making them parties to the proceedings in any way, either actual or constructive, obtained another decree for the sale of the property of the succession to pay debts which had been assumed and promised to be paid by his testatrix, and which complainants had already advanced money to pay, and caused the lands reserved by complainants to be again sold and adjudicated to one Isadore Newman for a low price and at an utter and entire sacrifice.

That the said John A. Buckner and the said Ben. E. Hall obtained the dissolution of the injunction staying the sale of the Mounds plantation, as complainants are informed, by paying to the
10 plaintiffs the amount pretended to be due them, and the said Mounds plantation was offered for sale at public auction on June 19th, 1880; that at said offering a responsible bidder bid for said plantation the sum of $30,000.00, when the said Hall, instigated by the said Buckner, for the purpose of defeating the adjudication, and well knowing his inability to pay any part of the purchase price, bid a larger sum, and thereby prevented the adjudication; that said plantation was again offered on June 21st, 1884, and, there being no other bidder, was adjudicated to the said John A. Buckner for the sum of $22,000.00, and he thus became the owner thereof at a low price, and the succession of Leonora E. Hall was rendered insolvent.

Your complainants show that by these actings, doings, and pretences of the said Ben. E. Hall and the said John A. Buckner they have been deprived of the ownership and possession of the lands reserved by them, of the value of $10,000.00, unnecessarily and without notice to them sold by the said Ben. E. Hall at an entire sacrifice to pay debts which had no existence, or which, if they existed, were due by the said Hall, as instituted heir and universal

legatee of his dec'd wife, and which complainants had already paid or advanced money to pay, and which they would have paid
11 a second time to prevent the sacrifice of their property; that they have further been deprived of the $1,500.00 paid by them to obtain the avoidance of the sales first made; that any debts due by the succession of King were assumed and undertaken to be paid by Leonora E. Hall, their vendee, and that but for the said actings, doings, and pretences of the said John A. Buckner and the said Ben. E. Hall, her succession would have been solvent and amply sufficient to pay said debts; that said debts, if they ever existed, were paid by the said Ben. E. Hall, and were due to them, — either paid in discharge of the obligation of his testatrix, or compensated and extinguished by said obligation, and that there existed at the time of the rendition of the order of sale no necessity and no justification for a sale of the property to pay debts; that the said Ben. E. Hall has departed permanently from the State utterly insolvent and leaving therein neither property, rights, nor credits to which the jurisdiction of the court can attach; that he has never rendered any final ac. of his administration, and that complainants have no means of compelling him to render such ac., or of bringing him into court, either by his person or by his property; that their only remedy for his maladministration is against the said John A. Buckner and the said E. J. Delony and F. F. Montgomery, sureties on his bond, and that they are entitled to recover from said sureties the value of their property thus wrongfully and unnecessa-
12 rily sacrified and the reimbursement of the $1,200.00 twelve hundred dollars, which they were compelled to disburse.

That, failing such remedy, they are entitled to a rescission and dis-olution of the contract of sale with Leonora E. Hall for non-performance of the obligations by her and failure to pay the purchase price agreed to be paid, and to have the undivided half of the Mounds plantation and the other property so sold and conveyed by them to her restored to them, with the undivided half of the fruits and rents and revenues of each year, with legal interest from the day of sale, at an estimation of $2,500.00 per year, upon their reimbursing to said vendee, her heirs and assigns, so much of the purchase price as was paid to them. To the end, therefore, that the complainants may have that relief which they can only obtain in a court of equity, and that the said defendants may answer the premises, but not upon oath or affirmation, the benefit whereof is expressly waived by the complainants—

May it please your honors to grant unto the complainants citations to be directed to the said John A. Buckner and E. J. Delony and F. F. Montgomery and Ben. E. Hall, individually, and as representative of Leonora E. Hall, dec'd, thereby commanding them and each of them, at a certain time and under a certain
13 penalty therein to be limited, personally to appear before this hon'l court and there and then full, true, direct, and perfect answer make to all and singular the premises, and further to stand to, perform, and abide such further order, direction, and decree therein as to this hon'l court shall seem meet; and that com-

plainants may have and recover judgment against the said defendants *in solido*, and against all and each of them as "principal" sureties on the bond of said Ben. E. Hall, for the said sum of $11,200.00, eleven thousand two hundred dollars, with legal interest on the sum of twelve hundred dollars from Jan. 1st, 1881, and on the sum of ten thousand dollars from Jan. 19th, 1884, and that failing therein complainants may have judgment against the said John A. Buckner and Ben. E. Hall rescinding the contract of sale made and entered into between them and Leonora E. Hall for non-performance of her obligations by the vendee, and condemning him, the said John A. Buckner, as assignee, to return to complainants the undivided half of the Mounds plantation and the other property so sold and conveyed, with the undivided half of the fruits and rents and revenues of each year from the day of sale, with legal interest, upon the reimbursement to him by complainants of so much of the purchase price as may have been paid, with interest; and
14 that it may be — to a — of this hon'l court that an account may be taken thereof; and that complainants may have such further or other relief in the premises as the nature of the circumstances of this case may require and to your honors shall seem need.

WADE R. YOUNG,
Att'y & Solicitor.

And endorsed on the back of the above and foregoing petition are the following words and figures, to wit:

"596. Heirs of W. D. King *vs.* Ben. E. Hall, adm'r, *et al.* Filed February 2d, 1885. Wm. Rons, clerk."

Citation.

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

EUNICE H. KING and Others
vs.
BEN. E. HALL, Adm. & Others. } No. 596.

The State of Louisiana and said court to Ben. E. Hall, as representative of Leonora E. Hall, dec'd, residing in said parish and State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition of the said Eunice H. King *et al.*, a duly certified copy of which accompanies this citation, or to deliver your answer to the said petition in writing in the office of the clerk of said court, held at Providence, in said parish, within ten days
15 after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Honorable E. J. Delony, judge of said court, and the seal of said court, this the 12th day of Feb'y, A. D. 1885.

[L. S.] WILLIAM RONS, *Clerk.*

Delivered February 13th, 1885.
A true copy.

WM. RONS, *Clerk.*

[Endorsed :] Eighth district court. Eunice H. King *et al. vs.* Ben. E. Hall & others. No. 596. Citation.

Sheriff's Return.

Received within citation and certified copy thereof, together with a certified copy of plaintiffs' petition, on Saturday, the 14th day of Feb'y, 1885, and on the 18th day of same month and year I proceeded to serve the said copy, and after diligent search I failed to find the within-name- Ben. E. Hall, adm., and from information received I believe him to be permanently absent from the State.

M. S. POWELL, *Sheriff.*

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

EUNICE H. KING *et al.*
vs.
BEN. E. HALL, Adm'r, *et al.* } No. 596.

16 The State of La. and said court to John A. Buckner, residing in said parish and State, Greeting :

You are hereby summoned either to comply with the demand contained in the petition of the said Eunice H. King and others, a duly certified copy of which accompanies this citation, or to deliver your answer to the said petition in writing in the office of the clerk of said court held at Providence, in said parish, within — days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this the 12th day of February, A. D. 1885.

[L. S.] WM. RONS, *Clerk.*

Delivered February 13th, 1885.

WM. RONS, *Clerk.*

Citation.

Eighth District Court.

EUNICE H. KING & Others
vs.
BEN. E. HALL, Adm'r, & Others. } No. 596.

Sheriff's return.

Received within citation & certified copy thereof, together with a certified copy of plaintiff's petition, on Saturday, the 14th day of

February, 1885, and on the 16th day of same month & year served the same by handing the said copies to John A. Buckner in
17 person in the parish of East Carroll, La.

M. S. POWELL, *Sh'ff*,
By F. J. POWELL, *D'y.*

Citation to F. F. Montgomery.

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

EUNICE H. KING & Others
vs.
BEN. E. HALL, Adm'r, & Others } No. 596.

The State of Louisiana and said court to F. F. Montgomery, residing in said parish and State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition of the said Eunice H. King and others, a duly certified copy of which accompanies this citation, or to deliver your answer to the said petition, in writing, in the office of the clerk of said court, held at Providence, in said parish, within ten days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Honorable E. J. Delony, judge of said court, and the seal of said court, this the 12th day of February, A. D. 1885.

WM. RONS, *Clerk.*

Delivered February 13th, 1885.

WM. RONS, *Clerk.* [L. S.]

Sheriff's Return.

Received the within citation and certified copy thereof, together with a certified copy of plaintiff's petition, on Feb'y 14th, 1885, and on the 18th day of same month and year served same by handing said copies thereof to Mrs. Field F. Montgomery, wife of the within-named F. F. Montgomery, a person well known to me, and apparently above the age of 14 years, at and residing at the residence
18 of said F. F. Montgomery, in the parish of East Carroll, State of Louisiana, said Montgomery at this time being absent from home.

M. S. POWELL, *Sh'ff*,
By T. J. POWELL, *D'y.*

Returned and filed February 18th, 1885.

WM. RONS, *Clerk.*

Citation to E. J. Delony.

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

EUNICE H. KING & Others
vs.
BEN. E. HALL, Adm'r, & Others. } No. 596.

The State of Louisiana and said court to E. J. Delony, residing in said parish and State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition of the said Eunice H. King and others, a duly certified copy of which accompanies this citation, or to deliver your answer to the said petition, in writing, in the office of the clerk of said court, held at Providence, in said parish, within ten days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Honorable E. J. Delony, judge of said court, and the seal of said court, this the 12th day of February, A. D. 1885.

WM. RONS, *Clerk.*

Sh'ff's Ret.

Received the within citation & certified copy thereof, together with a certified copy of plaintiffs' petition, on February 14th, 1885, and on 18th day of same month & year served same by handing the said copies to Chas. E. Miller, a person to me well known and apparently above the age of 14 years, at and residing at the residence of E. J. Delony, said Delony at this time being absent from the parish.

19

M. S. POWELL, *Sh'ff.*
By T. J. POWELL, *D'y.*

Papers and Documents in the Succession of W. D. King.

To the hon. the parish judge of the parish of East Carroll:

The petition of Ben. E. Hall, a resident of said parish, with respect shows that on the 25th day of September, 1877, William D. King departed this life in your said parish, leaving therein a considerable succession of real and personal property; that there are no heirs of said King residing in the State of Louisiana; that it is necessary for the interest of said succession that — should be an administration of the same with as little delay as practicable; that your petitioner has been in the employ of said King for a number of years attending to his business of every kind and is more conversant with his affairs than any one else, and he feels sure he could administer the same to better advantage and more to the interest of the succession than any one else. Wherefore he prays that due notice of this application be given, and, after the legal delays and all the forms of law have been complied with, that your petitioner be ap-

pointed curator of said succession, and that letters issue to him accordingly; that a counsel of absent heirs be appointed, and that a commission issue [to] some person legally authorized to take and state an inventory; for all necessary orders.

MONTGOMERY AND DELONY, *Att'ys.*

20 Upon reading the foregoing application it is ordered that due notice of this application be given; that a commission to take an inventory issue to some notary public; that Charles M. Pitcher, attorney at law, be appointed counsel of absent heirs, and, if no opposition be made within the time prescribed by law, that Ben. E. Hall be appointed curator of the vacant succession of Wm. D. King, & that letters as such issue to him.

Done and signed in chambers on this 27th day of September, A. D. 1877.

C. E. MOSS,
Parish Judge.

Notice.

Ben. E. Hall has applied to be appointed curator of the succession of Wm. D. King. If no opposition is made thereto within 10 days, the time prescribed by law, he will be appointed as prayed for.

C. E. MOSS,
Parish Judge.

Acceptance of Counsel of Absent Heirs.

I accept the appointment of counsel of absent heirs, and accept service of this petition.

CHAS. M. PITCHER, *Att'y.*

And endorsed on the back of the foregoing petition are the words & figures following, to wit:

"Succession of W. D. King. Pet. for adm. Filed Sept. 27th, 1877. B. H. Lainer, cl'k."

Inventory.

STATE OF LOUISIANA, *Parish of East Carroll:*

21 Be it remembered that in pursuance of an order from the hon. parish court, and of a commission to me directed from Benjamin H. Lainer, clerk of said court in and for said parish & State, authorizing and requiring me to make an inventory and cause an appraisement to be made, appreciative and descriptive, of all the property and effects, rights and credits to be found in said parish and State and belonging to the succession of the late Wm. D. King, deceased—

I, Robert J. Loudon, a notary public in and for the parish of East Carroll, State of Louisiana, duly commissioned and qualified, did on the 29th day of September, A. D. 1877, proceed to the residence of the late Wm. D. King, on the Mounds plantation, in said parish and State, and proceeded to make said inventory and cause

said appraisement by appointing Chas. McAllister and Wm. C. McRea to act as appraisers, to whom I administered the following oath, to wit:

STATE OF LOUISIANA, *Parish of East Carroll:*

We do each of us solemnly swear that we will well and truly appraise and the true cash value place upon all property and effects, rights and credits which may be submitted to our decision as belonging to the succession of the late Wm. D. King, dec'd, according to the best of our ability and understanding, so help us God.

CHAS. McALLISTER.
W. C. McRAE.

Sworn to and subscribed to before me this the — day of ——, A. D. 1877.

22 R. J. LOUDON,
Notary Public.

And having sworn said appraisers, we then, in the presence of the subscribing witnesses, proceeded to make the following—

Inventory and Appraisement.

Item first. Land.

An undiv[id]ed half interest in and to that certain tract or parcel of land known as the Mounds plantation, situate, lying, and being in the parish of East Carroll, State of Louisiana, and described by numbers as follows, to wit: Parts of sections twenty-five (25) and twenty-six (26) and all of section twenty-eight (28), half of section twenty-one (21), and S. E. ¼ of section twenty-seven (27), all in township (20) twenty, range (12) twelve, containing (1,750) seventeen hundred and fifty acres, more or less, the said undivided half interest appraised at---------- $9,425 00

An undivided half interest in and to the following property: The half (½) of the S. E. ¼ of section five (5), the whole of section eighteen (18), lots one (1), two (2), three (3), four (4), five (5), six (6), and twelve (12) of section nineteen (19), and that portion of land commencing at the corner of Swan Lake, between sections seven (7) and eighteen (18); thence north to Joe's bayou; thence along Joe's bayou to the range line between ranges eleven (11) and twelve; thence south to a stake at the southwest corner of section seven (7), all in township No. twenty (20), range (12) twelve east; also south half (S. ½) of southeast quarter
23 (S. E. ¼) of section (12) twelve and east half (E. ½) of section twenty-four (24), township twenty, range eleven east, district of lands north of Red river, Louisiana, the undivided one-half being eight hundred and sixty-two $\frac{6}{100}$ (862.06) acres, appraised at one dollar per acre---------- 862 06

All the following-described property, to wit: Northeast corner of the northwest quarter west of Joe's bayou in section thirty-five (35), fourteen acres, and [southeast quarter] (S. E. $\frac{1}{4}$) of section thirty-five (35), one hundred and sixty-three acres, containing in the aggregate one hundred and seventy-seven (177) acres, appraised at one dollar ($1.00) per acre ---------- 177 00

$10,464 06

The undivided half or part of the following-described tract of land, to wit: North half of section six (6), township No. twenty (20), range twelve east, three hundred and thirty-one $\frac{20}{100}$ acres; also one hundred and nineteen $\frac{84}{100}$ (119.84) acres of the north part of section five (5), to be divided in a parallel line running east and west so as to make the total of five hundred and twenty-three $\frac{4}{100}$ (523.04) acres, being known as the "Lick Skillet place," appraised at one dollar per acre, $\frac{1}{2}$ appraised at ---------- 261 52

The following-described property *described property* or tract or parcel of land, to wit: The west half (W. $\frac{1}{2}$) of (N. E. $\frac{1}{4}$) northeast quarter and twenty-four $\frac{50}{100}$ (24.50) acres in the south portion of northwest quarter (N. W. $\frac{1}{4}$) of section twenty-five (25) that lies east of Joe's bayou and numbered on plat as No. five (5), all in [section] twenty-five (25), township No. twenty
24 (20), range eleven (11) east, containing one hundred and eighty-six $\frac{68}{100}$ acres; also south half of southwest quarter of section number twenty-four, township No. twenty, range (11) eleven east, cont'g (82) eighty-two acres, containing in the aggregate two hundred and sixty-eight $\frac{68}{100}$ (268.68) acres, more or less, appraised at one dollar ($1.00) per acre ---------- 268 68

Total value of item first, land ---------- $10,994 26

And, not being able to complete this inventory and appraisement this day, we adjourned the same until 10 o'clock Monday morning, October the 1st, 1877.

MONDAY MORNING, *October the 1st*, 1877.

We met, pursuant to adjournment, and continued the inventory and appraisement.

Item second. Stock of goods and store fixtures.

An undivided half interest in & to the following goods, &c.:

1 iron safe ----------	appraised at 75.00, $\frac{1}{2}$ int.	--	37 50
1 double desk ----------	" " 16.00, $\frac{1}{2}$ "	--	8 00
2 single bedsteads ----------	$\frac{1}{2}$ "	--	9 00
3 lamps ----------	same	--	6 00
1 letter-press ----------	"	--	2 00

3 spittoons		"	1	25
1 night-glass		"		38
1 trunk		"		75
1 clock		"	2	50
1 mirror		"		37
5 chairs & stools		"	1	25
1 bowl & pitcher		"		63
2 water buckets		"		15
1 washstand		"		50
10½ sacks corn		"	7	40
	20 bbls. corn, ear	"	5	00
25	5½ bales hay	"	4	50
	8 bbls. mess pork	"	60	00
13½ bbls. cornmeal		"	16	88
7 half bbls. flour		"	14	00
5¼ bbls. flour		"	19	38
2 bbls.—79 gals.—molasses		"	17	20
1 " coal oil, 51½ gals.		"	3	86
20 gals. " in can		"	1	50
10 kegs nails		"	18	75
10 gals. lard oil		½ int. appraised at	6	75
46 " whiskey		same	26	85
9 boxes soap, 540 lbs., 5½		"	14	85
1 box soda, 60	5½	"	1	95
8 gals. tar		"	2	25
340 yds. bagging		"	26	80
40½ gals. vinegar		"	4	28
2 sacks salt		"	1	25
4 bundles tris		"	5	00
15 lb lard		"		94
4 shovels		"	2	00
1 stove		"	4	00
1 "		"	2	50
2 caddies tobacco, 120 lbs.		"	36	60
25 feet iron pipe		"	3	37
1 old bedstead		"	2	50
269 lb S. C. hams vl.		"	16	83
Mackerel		"		65
41 lb black pepper		"	3	67
1 Blount phie		"	4	00
1 coal-oil reservoir		"	4	00
1 water cooler		"	1	00
1 p'r cot. scales		"	4	00
	1 p'r mail grabs	"		38
26	10 gals. fish oil	"	3	25
	2 p'rs counter scales	"	1	75
1 box 15 lb noodles		"		75
75 lb starch		"	1	81
115 lb coffee		"	10	05
25 cr. sugar		"	1	56
9 hanks bailing twine		"		36

4 lb tallow	"	--	20
128 lb rice	"	--	3 84
2½ lb wrapping twine	"	--	19
1 surveyor's chain and pins	"	--	1 25
62 p'rs wro't hinges	"	--	1 86
11 lb powder	"	--	83
6 lb cot. rope	"	--	54
7½ oz. quinine	"	--	17 93
2 bot's chloral	"	--	26
1 lot old drugs	"	--	5 00
11 bot. brandy cherries	"	--	1 59
9 " " peaches	"	--	1 13
6 " tomato catsup	"	--	37
12 glasses jelly	"	--	90
9 half b'x mustard	"	--	56
6 " " "	"	--	60
27 " yeast powders	"	--	1 25
4 " potted meat	"	--	50
71 " oysters	"	--	2 34
40 " fresh salmon	"	--	4 00
1 doz. boxes sardines	"	--	75
13 " axle grease	"	--	82
31 De France burners	"	--	3 88
17 common "	"	--	1 07
1 lot "G D" caps, 25c.; 52 boxes Elis E. B. caps, 2.00	"	--	2 25
2½ boxes cigars	"	--	3 38
27 1¾ gro. blueing	"	--	88
4 doz. memoranda books	"	--	1 20
¼ gros. matches	"	--	1 00
¾ ream cap paper	"	--	1 40
20 boxes blacking	"	--	20
5 " " French	"	--	10
2½ lb tea	"	--	1 25
3½ lb tea	"	--	1 31
5 lb spice	"	--	33
20 lb candy	"	--	1 50
3 bot's pepper sauce	"	--	10
9 school slates	"	--	45
28 box- con. lye	"	--	1 75
20 " condensed milk	"	--	2 00
17.2 lb Smo. tobacco	"	--	4 38
2½ doz. toilet soap	"	--	50
2 lb chewing tobacco	"	--	50
60 lb soda	"	--	1 65
16 bars soap	"	--	24
1 lot stone pipes	"	--	8
¾ box herrings	"	--	15
30 tumblers & goblets	"	--	1 05
5 dishes	"	--	60
12 "	"	--	90

" "		"	--		40
7 "		"	--		35
6 pickle dishes		"	--		45
6 dishes		"	--		45
38 lb candl-s		"	--	2	37
3 molasses pitchers		"	--		30
1 lot lamp chimneys		"	--		63
9 pitchers		"	--	2	25
	3 pitchers	"	--		60
28	1 gravy b'l	"	--		30
	3 small pitchers	"	--		30
8 doz. cups & saucers		"	--	1	00
5 soup plates		"	--		15
16 small "		"	--		16
3 saucepans		"	--		53
3 tea-kettles		"	--		38
1 " "		"	--		17
5 tin syrup pitchers		"	--		38
5 powder flasks		"	--		63
3 small powder flasks		"	--		23
4 chopping knives		"	--		40
6 whitewash brushes		"	--	1	00
50 lb shot		"	--	2	00
12½ gal. cans		"	--		90
5 " " "		"	--		50
1 lot awl handles & wrenches		"	--		38
1 " large fishhooks		"	--		13
3½ doz. iron shovels		"	--		38
1 lot pewter tablespoons		"	--		12
1 doz. cupboard locks		"	--		50
8 chest locks, 60; 2 chest locks, 20		"	--		80
12 cupboard locks		"	--		60
4 doz. hat-hooks		"	--		20
1 lot screws		"	--		88
2 spring latches		"	--		35
3 port bits		"	--		75
4 " "		"	--		30
4 " "		"	--		60
7 Centennial spurs		"	--	1	75
5 " "		"	--		63
2 plate locks		"	--		50
	2 padlocks	"	--		20
29	2 coffee-mills	"	--		25
	20 curry-combs	"	--		50
3 coffee-toasters		"	--		75
1 small saucepan		"	--		13
4 fry-pans		"	--		50
7 " "		"	--	1	05
3 hatchets		"	--	1	13
4 hammers		"	--		80
25 steel hoes		"	--	9	38

2 shingling hatchets	"	--	90
9 sets door-latches	"	--	50
6 lb H. S. nails	"	--	75
6 axes	"	--	3 00
61 ¼-augers	"	--	3 05
3 metal dippers	"	--	60
5 coffee-drippers	"	--	1 25
3 dish-pans	"	--	60
6 seives	"	--	45
3 Tex. spurs	"	--	30
20 shoe brushes	"	--	1 25
3 scrub "	"	--	62
5 " "	"	--	50
6 horse "	"	--	60
12 p'rs strap hinges	"	--	36
9 " " "	"	--	31
11 " " "	"	--	60
4 " " "	"	--	40
6 " " "	"	--	60
4 " " "	"	--	60
10 " butts	"	--	75

And, not being able to complete this inventory and appraisement to-day, we adjourned the same until 10 o'clock to-morrow,
30 Tuesday morning, the second day of Oct., A. D. 1877.

TUESDAY MORNING, *Oct. the 2nd, A. D.* 1877.

We met, pursuant to adjournment, and continued this inventory and appraisement.

4 umbrellas		--	1 00
20 small bells	½ — appraised at	--	1 50
16 snaffle-bits	"	--	60
18 ax-handles	"	--	1 13
4 small brooms	½ int. appraised at	--	30
9 riding cowhides	same	--	22
3 " whips	"	--	15
2 blacksnake whips	"	--	75
3 mule "	"	--	60
4 parasols	"	--	30
4 "	"	--	40
20 russet bridles	"	--	75
3 snaffle "	"	--	1 13
3 curb "	"	--	1 20
1 web "	"	--	20
1 "	"	--	75
1 grass headstall	"	--	05
6 p'rs martingales	"	--	1 50
10 " reins	"	--	1 25
3 bridles, complete	"	--	98
6 leather halters	"	--	3 75

5	duck giaths	"	--	63
6	web "	"	--	75
2	sursingles	"	--	35
6	web girths	"	--	75
6	p'rs stir-up leathers	"	--	1 95
1	" " "	"	--	25
2	cruppers "	"	--	20
	6 web girths	"	--	75
31	6 p'rs stir-up leathers	"	--	2 25
	24 mule collars	"	--	6. 00
2	well buckets, .40; 3 milk buckets, .75	"	--	1 15
3	paint buckets	"	--	23
1	silver-m't'd lantern	"	--	5 00
5	skimmers	"	--	13
2	p'rs saddle-bags	"	--	2 00
3	doz. bun. tape	"	--	25
¾	gross dress braids	"	--	2 00
30	yds. edging	"	--	50
½	" "	"	--	08
3	" "	"	--	05
31	" "	"	--	93
18	" elastic	"	--	05
1	r'l edging	"	--	74
2	" "	"	--	25
1	" " bro.	"	--	07
4	yds. lace edging	"	--	75
6	" silk velvet ribbon	"	--	15
18	bx. hair-pins	"	--	36
13	cards agate buttons	"	--	36
6	doz. glass "	"	--	08
5	" " "	"	--	13
4	" dress "	"	--	10
1	lot " "	"	--	05
21	spools silk	"	--	50
7	bales hair-pins	"	--	35
9	p'rs elastic	"	--	25
8	leather belts	"	--	1 00
4	silk h'dk'fs, 1.20; 1 — Berlin cuffs, .07	"	--	1 27
6	p'rs plain cuffs, .30; 11 l'd's' collars, .40	"	--	70
8	l'd's' collars	"	--	40
32	l'd's' collars, Swiss, .16; 1 ruf. collar, .13	"	--	19
32	6 gent's ties	"	--	45
	6 " bows, bl'k	"	--	75
7	" " assorted	"	--	55
14	" " "	"	--	70
½	bx. envelopes	"	--	25
4	bot's h'dk'fs extract	"	--	1 00
5	box- stove polish	"	--	10
3	bot's Mancel white	"	--	30
5	p'rs pearl cuff buttons	"	--	38

1 lot brass jewelry	"	--	37
40 violin strings	"	--	38
5 rubber dress combs	"	--	50
3 tuck combs	"	--	50
7 " "	"	--	18
42 horn "	"	--	63
6 rubber dress combs	"	--	90
60 band combs	"	--	3 00
17 fine "	"	--	1 80
10 " "	"	--	20
17 " "	"	--	21
25 " "	"	--	63
2 hair-brushes	"	--	25
5 clothes "	"	--	75
1 lot lamp-wicks	"	--	25
1 " fish-lines	"	--	2 00
3 doz. " "	"	--	38
7 tooth-brushes, .52; 18 lead pencils, .27	"	--	79
2 doz. pen sticks, .10; 1 russet pocket-book, .15	"	--	25
6 russet pocket-books	"	--	90
6 " " "	"	--	45
1 doz. violin bridges	"	--	08
1 deck cards	"	--	07
1 lot glass marbles	"	--	08
33 1 monkey-wrench	"	--	38
5 p'rs goggles	"	--	12
1 lot slate pencils	"	--	05
9 lead tops	"	--	13
3 p'rs sheep-shears	"	--	1 13
1 shingling hatchet	"	--	25
1 hammer	"	--	17
7 steel chains	"	--	05
1 lot tin spectacle cases	"	--	07
1 knob lock	"	--	18
2 powder flasks	"	--	75
2 " "	"	--	25
1 " "	"	--	05
1 large padlock	"	--	25
1 " "	"	--	08
1 " "	"	--	05
1 " "	"	--	05
1 plate lock	"	--	15
2 gun locks	"	--	13
3 knives & forks	"	--	25
6 " "	"	--	40
3 knives & forks, .25; 8 butcher knives, .50	"	--	75
9 butcher knives, .67; 8 p'rs scissors, 1.00	"	--	1 67
2 p'rs scissors	"	--	15
1 pock- knife	"	--	20

1	" "	"	--	25
6	" "	"	--	1 80
1	" "	"	--	38
1 lot gun nipples		"	--	13
3 H. S. files		"	--	15
22	" " "	"	--	1 38
5 doz. gimlets		"	--	20
	1 meat-chopper	"	--	08
34	1 steel spur	"	--	25
	1 cast-steel spur	"	--	.13
1 cast-steel spur		"	--	12
1 racking bit		"	--	25
1	" "	"	--	10
1	" "	"	--	18
1	" "	"	--	15
1	" "	"	--	37
7 papers tacks		"	--	18
12 ¼-augers		"	--	60
4 doz. teaspoons		"	--	50
1	" "	"	--	82
1 chisel	"	"	--	07
1 lot small F. hooks		"	--	75
1 hat		"	--	25
5 hats, No. 2241		"	--	2 00
4	" 668	"	--	3 25
6	" broad-brim, No. 1482	"	--	4 50
6	" " 576	"	--	6 00
5	" " 808	"	--	4 38
1	" " 35	"	--	75
3	" " 9	"	--	1 87
6	" No. 1181	"	--	6 00
6	" 665	"	--	5 75
6 boys' cloth caps		"	--	1 50
6	" grey "	"	--	1 50
8 W. S. A. hats		"	--	1 50
6 W. B. straw hats		"	--	60
5 narrow B.	"	"	--	50
7 straw ventillators		"	--	1 40
1 lot Nellie Grant bustles		"	--	13
5 p'rs ladies' cloth shoes, 1		"	--	3 75
	3 p'rs gent's side-lace shoes, 2	"	--	3 00
35	4 p'rs l'd's' kid shoes, 3	"	--	4 00
	1 p'r misses' " 4	"	--	88
1 p'r l'd's' kid shoes, 4		"	--	87
1	" " " lamb	"	--	38
2	" " cloth shoes, 6	"	--	1 50
3	" gent's slippers, 7	"	--	1 88
3	" " " 7, 1.50; 11 ch'd cloth, 8, 5.50	"	--	7 00
5 p'rs ch'ld- fancy, 9, 2.50; 1 lot baby shoes, 9, .25		"	--	2 75

5 p'rs bal's shoes, 10	"	--	2	50
6 " " " 11	"	--	3	00
7 " gent's lace shoes	"	--	8	75
36 " extra brogans	"	--	27	00
9 " " "	"	--	4	50
12 " boys' "	"	--	3	90
3 " " boots	"	--		75
1 " L. & B. brogans	"	--		25
25 " men's "	"	--	15	63
17 " l'd's' plu. "	"	--	8	50
1 lot—6 p'rs damages shoes	"	--		75
1 p'r l'd's' g'r side-lace shoes	"	--		62
7 " " " " " "	"	--	4	38
2 " " " " " "	"	--	1	00
16 " " f'cy shoes, with buttons	"	--	12	00
1 " " shoes, com.	"	--		38
29 " " c'lf pegged shoes	"	--	14	50
2 " gent's Scotch button boots	"	--	4	50
5 " " P. S. peg "	"	--	7	50
2 " boys' shoes	"	--	1	75
1 " " "	"	--	1	00
1 " oil grain, extra long shoes	"	--	2	00
4 " mud boots (men's)	"	--	5	00
2 " men's cong. gaiters	"	--	3	50
4 p'r cop. tip shoes	"	--	1	50
36 12 p'rs child's button shoes	"	--	6	00
2 " cong. gaiters, peg	"	--	1	00
1 p'r lace shoes, peg	"	--		50
2 " low-¼ "	"	--	2	50
4 " " " "	"	--	3	00
1 " " " "	"	--		88
15 " gent's cloth gaiters	"	--	9	38
3 " men's boots	"	--	3	75
4 " gent's " sq. toe	"	--	9	00
4 " " " box "	"	--	10	00
9 " " "	"	--	19	13
10 " jeans pants, No. 7688	"	--	5	00
8 " " " 7385	"	--	2	80
6 " " " 400	"	--	4	50
9 " " " 25	"	--	3	12
6 " doeskin pants	"	--	12	00
1 " bl'k velvet "	"	--	1	50
8 cases O. shirts, lot "B. W."	"	--	3	00
12 flannel shirts	"	--	3	00
4 cob. " No. 999	"	--	1	50
4 cases " 31	"	--	1	70
24 stockings	"	--	4	84
14 linen vests	"	--	4	13
1 bl'k cass. "	"	--		88
1 " " "	"	--		75
2 navy-blue vests	"	--	1	00

3 l'd's' cloaks		"	4	50
14 jeans coats 14.00; 4 jeans sack, damaged, 2		"	16	00
4 jeans coats 3.00; 3 jeans sacks, damaged, 1.50		"	4	50
6 cass. coats		"	3	75
3 " sacks		"	4	50
9 cot. coats		"	4	38
2 cass. coats		"	2	50
37 5 bl'k cloth coats		"	7	50
5 " cass. "		"	8	75
3 bl'k cass. coats		"	5	25
7 "		"	5	25
1 bl'k cloth "		"	2	00
1 cass. "		"		75
5 overcoats, 693		"	10	00
3 " 727		"	4	50
3 cass. sacks		"	2	25
2 bro. cot. coats		"	1	00
17 striped linen coats		"	6	80
6 bro. " "		"	3	75
9 " " " No. 4652		"	3	38
4 " " " 2432		"	2	50
5 linen dusters		"	2	50
1 pr. knit drawers		"		25
787 yds. prints		"	23	61
14 " imperial prints		"		88
16 " cambric		"	1	60
40 " grass cloth		"	1	20
38 " worsted (3 rs.)		"	1	40
35 " tartan pla-d		"	3	50
14 " alpaeca		"	1	78
55 " plaid ginghams		"	4	13
27 " bl'ck velvet		"	3	35
16 " " " 1.60; 78 yds. pl'd lindsay, 7.80		"	9	40
33 yds. blue flannel, 4.95; 13 y'ds pl'd lindsay, 1.30		"	6	25
9 yds. white flannel		"	1	35
19 " " "		"	1	87
2 " red "		"		30
31 " jeans		"	1	90
14 " cotton check		"	1	05
245½ yds. stripes		"	11	05
38 4 bal. skirts		"		50
9 " "		"	1	35
1 cotton shawl		"		37
28 mad. h'k'fs		"	2	80
32 " "		"	4	80
37 yds. ticking		"	4	63
46 " "		"	4	62

29	"	"	"	--	3 65
18.2	"	"	"	--	1 15
450	"	8 oz. Osnaburg	"	--	22 52
416	"	bro. sheeting	"	--	16 65
15	"	langley drill	"	--	75
55	"	cotton flannel drill	"	--	2 72
12	"	" " blue	"	--	75
56	"	bl'ck muslin	"	--	5 60
47	"	" " A A	"	--	2 00
52	"	" " Farmmount	"	--	2 08
51.2	"	" Whelmville	"	--	2 06
48	"	" big bonanza	"	--	1 70
29	"	" muslin, .72; 2 yds. prints, .07	"	--	79
23	"	figured muslin, .75; 5.2 yds. ticking, .22	"	--	97
372	"	cambric	"	--	11 16
2	"	chambra	"	--	20
7	yds.	bro. linen	"	--	55
6	"	Irish "	"	--	1 05
8	"	" " 1.70; 7 yds. Irish linen, 23.6	"	--	4 33
24	"	" " 4.80; 82.2 yds. mos. netting, 15.70	"	--	20 50
50	"	mos. netting	"	--	11 25
29	"	10-4 bl'd sheeting	"	--	5 07
19¼	"	bl'd drilling	"	--	98
38	"	" "	"	--	2 09
15	"	" "	"	--	94
		33 yds. wiggins	"	--	2 07
39		9¾ " crash	"	--	61
		28 " toweling	"	--	2 10
6 baby hoods			"	--	60
1 cot. mos. bar			"	--	20

And, not being able to complete this inventory and appraisement this day, we adjourned the same until to-morrow, Wednesday morning, Oct. the 3rd, 1877, at 10 o'clock.

WEDNESDAY MORNING, *Oct. the 3rd, A. D.* 1877.

We met, pursuant to adjournment, and continued this inventory and appraisement.

9	p'rs	cot. hose	½ — appraised at	--	1 13
16	"	" "	"	--	1 60
12	"	" "	"	--	90
16	"	" "	"	--	2 00
7	"	" "	"	--	87
12	"	" "	"	—	1 20
12	"	" "	"	--	1 50
26	"	" "	"	--	2 86
18	"	" "	"	--	2 25

16	" " "	"	--	1	84
13	" " "	"	--		98
1	" " "	"	--		10
22	" " "	"	--		82
21	" misses' hose	"	--	2	63
18	" l'd's' f'cy hose	"	--	1	53
18	" " " "	"	--	1	63
14	" " " "	"	--	1	05
	4 p'rs child-' Saxony wool hose	"	--		30
40	34 p'rs men's ½ hose	"	--	2	12
	17 " " ½ "	"	--	2	13
1 p'r	men's ½ hose	"	--		20
6	" " "	"	--		45
10	" " "	"	--	1	00
3	" " "	"	--		38
2	" " col. gloves	"	--	00	40
14	" " Berlin gloves	"	--	00	00
5	" " "	"	--		25
3	" " doeskin "	"	--		38
5	" " " " 1.25; 5 p'rs l'd's' gauntlets, .88	"	--	2	13
5	p'rs men's gloves	"	--	1	88
9	" gent's Berlin gloves	"	--		23
8	" l'd's' col'd gloves, .60; 7 pr's l'd's' white gloves, .17	"	--		77
6	p'rs men's gauntlets, 2.25; 3 p'rs men's gauntlets, 1.13	"	--	3	38
36	l'd's linen hem*med*-stitched hdkfs	"	--	3	60
31	" emb'r'd "	"	--	1	24
9	gent's linen "	"	--	1	20
20	bx. paper collars	"	--		50
6	" "	"	--		30
1	lot pants buckles	"	--		08
5	corsets	"	--	2	00
2½	bx. flax	"	--		45
1	bx. linen thread	"	--		50
1	lot shoe buckles	"	--	00	00
2	doz. balls welting cord	"	--	1	00
1½	" " " black	"	--		23
5	" " " white	"	--		62
3½	gros- braid lace	"	--		70
½	doz. linen sheets	"	--	2	25
7	shirt fronts	"	--		70
½	doz. "cap york" shirts	"	--	2	25
	½ doz. "diamond" shirts	"	--	3	00
41	½ doz. white shirts	"	--	3	15
	4 India gauze shirts	"	--	1	00
6	India gauze shirts	"	--	1	50
10	bro. under "	"	--	1	50
3	p'rs red flannel drawers	"	--	1	50
6	" gent's white flannel drawers	"	--	4	50

3 " cot. flannel drawers	"	--	1	28
14 yds. Swiss muslin, 1.05; 62 yds. cambric, .81	"	--	1	86
20 yds. cambric	"	--	2	00
10 " "	"	--	1	10
5½ " "	"	--		68
10½ " "	"	--		93
7 " "	"	--	1	05
15 " berage	"	--	2	63
3 " "	"	--		75
2 veils	"	--		22
31 p'rs suspenders	"	--		77
35 bun. mohair braid	"	--	4	25
51 doz. rubber buttons	"	--	3	19
11 bx. hooks & eyes	"	--		27
1 lot agate buttons	"	--		50
1 " cloth belts	"	--	00	00
22 p'rs suspenders	"	--		55
22 pap. pins	"	--		28
1 lot steel thimbles	"	--		25
5 hair netts	"	--		37
13 " " 1.95; 11 same, .69	"	--	2	64
7 " "	"	--		35
5 " "	"	--		75
9 " "	"	--	1	35
3 doz. pap. pins	"	--		75
1 " " "	"	--		38
70 doz. bun. serp. braid	"	--	1	75
42 2 doz. bun velvet braid	"	--		25
2 "	"	--		15
2 doz. bun velvet braid, .30; 2 do., do., .45	"	--		75
1 " .17; 3 do., do., .38	"	--		55
2 "	"	--		35
1 "	"	--		25
1 "	"	--		07
1 "	"	--		13
8 gro. pants buttons	"	--		60
2 M needles	"	--		87
7 doz. Clark's thread	"	--	1	75
1 lot hoop-skirts	"	--	00	00
1 " fans	"	--		50
1 " nubias	"	--		13
3 empty trunks	"	--	2	25
1 Winchester rifle	"	--	12	50
2 step-ladders	"	--	2	00
1 second-hand saddle & bridle	"	--	2	00
7 bx. Cascanella	"	--		38
2 razor straps	"	--		30
2 tobacco pouches	"	--	00	00
1 " cutter	"	--		38
1 sardine "	"	--		12

4 twine b'x's	"	--		25
3 show-cases	"	--	10	50
1 feather duster	"	--		35
1 counter brush	"	--		10
32 shelf boxes	"	--	1	60
1 tin mustard case	"	--		05
150 lbs. trace chains	"	--	4	00
1 shoe punch	"	--		13
1 lot desk fixtures	"	--		38
1 peg-cutter	"	--	00	00
43 34 p'rs hames	"	--	3	40
1 old meat ax	"	--	00	00
1 wood mallet	"	--	00	05
1 box-opener	"	--		07
4 old lamps	"	--		30
1 lot old lamps and fixtures	"	--	00	00
1 sec. hand co. oil can	"	--		05
5 glass globes	"	--	00	00
1 lot measures, scoops & funnels	"	--		50
1 monkey-wrench	"	--		25
1 slate	"	--		05
10 curtains and fixtures	"	--	7	50
1 lot old garden seeds	"	--	00	00
2 wreaths	"	--		25
1 old lantern	"	--		38
1 " letter stamp	"	--		12

And, not being able to complete this inventory and appraisement this day, we adjourned the same until to-morrow morning (Thursday), Oct. the 4th, A. D. 1877, at ten o'clock.

44 And on Thursday, Oct. the 4th, 1877, we met pursuant to adjournment, and continued this inventory and appraisement.

Item third. Stock and farming utensils.

10 head milch cows	appraised at	--	200	00
7 " oxen	"	--	210	00
2 bulls	"	--	50	00
1 sorrel mare, "Mary Kere"	"	--	75	00
1 grey " "Lizzie"	"	--	50	00
1 bay " "Kate"	"	--	50	00
1 sorrel " "Blaze Face"	"	--	50	00
1 bay stallion, "Theodore"	"	--	75	00
1 bay mare, "Nellie"	"	--	100	00
1 h'd sheep	"	--	27	00

An undivided ½ interest in & to the following stock, to wit., owned by King & G. Conn:

10 calves	½ app'd at		25 00
7 2-year old yearlings	½ int. app'd at		35 00
1 iron-gray horse, colt			37 50
1 bay filley, colt			15 00
1 colt (Sallie)			12 50

An undivided half interest in and to the following stock and farming utensils, wagons, &c., owned by W. D. King and Mrs. Elnora E. Hall in copartnership, to wit:

4 cows and calves	½ int. ap'r'd at		50 00
3 oxen	" "		30 00
1 sorrel mare ("Sallie")	" "		17 50
1 " " ("Annine Sticking")	" "		25 00
1 mouse-col'd mule ("Mose")	" "		32 50
1 " " " ("Beck")	" "		37 50
1 gray " ("Belle")	" "		35 00
1 brown " ("Jinsey")	" "		2 50
1 black " ("Donnee")	" "		35 00
45 1 sorrel mule, "Sallie"	½ int. app'd at		35 00
1 bay " "John"	same		37 50
1 bl'ck " ("Emily" & colt)	"		37 50
1 brown horse ("Frank")	"		32 50
1 sorrel mare, "Kitty Clover"	"		32 50
1 bay mule, "Dixey"	"		35 00
1 " " "Tom"	"		40 00
1 bl'ck " "Jerry"	"		40 00
2 two-horse wagons	"		25 00
1 ox "	"		20 00
1 dray	"		17 50
1 cart	"		12 50
2 plows	"		8 00
1 set wagon gear	"		7 50
1 plow "	"		75
1 wheelbarrow	"		50
4 ox yokes	"		5 00
2 " chains	"		1 50
½ doz. scythe blades	"		2 25
3 bbls. lime	"		2 25
1 flat-boat & rope at Teusas	"		30 00
1 double-tree & single-trees	"		1 00
1 " "	"		50

Item fourth. Personal effects.

1 sole-leather trunk	appr'd at		15 00
1 lot clothing & contents of trunk	"		35 00
1 double shot-gun	"		20 00
1 " " "	"		15 00

1 Winchester rifle	"	--	25	00
1 English tree saddle, bridle, & blanket	"	--	15	00
1 lot old plows & iron	"	--	10	00
1 vice (iron)	"	--	5	00
46 One-half interest in and to one grass cutter owned by W. D. King & W. B. Keene	"	--		50
Total amount of item fourth				

And, not being able for the want of time and preparation to complete this inventory and appraisement, we adjourned same until Tuesday, Oct. the 9th, A. D. 1877.

And on Tuesday, Oct. the 9th, 1877, we met pursuant to adjournment and continued this inventory and appraisement.

Item fifth. Judgment & pending suits.

One judg't *vs.* Jno. W. Hays for	$35	app'd at	00	00
" " W. M. Benton "	87.50	"	00	00
" " Andrew Whyly for	256.63	"		
" " F. Bullock, am't unknown		"		
" " Jno. F. Well for	269	"		

An undivided interest in and to the following judgments and pending suits owned by W. D. King and Mrs. Elenora E. Hall:

One judgment *vs.* Chas. Davis for	32.36	app'd at		
" " Thos. Morgan "	69.84	"		
" " Harrison Walker "	30.27	"		
" " Williams & Jackson "	13.32	"		
" " Andrew Page	96.45	"		
" " Jake Halle	5.14	"	2	57
" " William Jackson Hogan	59.27	" p'd		
47 One judgment *vs.* Addison Morgan	197.49	appr'd at		
One judgment *vs.* A. C. Ruth	112.64	"	25	00
" " Cæsar Johnson	122.57	" p'd		
" " Henderson Griffin	178.81	"		
" " Pompey Haney	25.28	"		
" " Tyler Thompson	146.97	"		
" " Peter Walker		"		
" " Mose Willis	168.40	"		
" " Troy Stewart	104.00	"	52	00
" " Mose Green	120	"	60	00
" " Dan. Proctor		"	00	00
" " Harrison Walker	80.00	"		
" " Jacob Hall	225.01	"	43	75
" " J. A. Gla	429.51	"		
Pending suits—R. T. and W. B. Keene	4.50	"	202	50

Judg't *vs.* Geo. Cummings	128	"	--		
" Fenias Madison	157.07	"	--		
" A. Haney	1,378.40	"	--	125	00
" James Brown	468.12	"	--		
" Aleck Horton for	160	"	--		
" Jno. & Jason Admire "	100	"	--		
" Troy Stewart, Jr.,	92.41	"	p'd		
" Henry Scott	65.80	app'd	--		
" Henry Pope	7.75	"	--		
" Jno. Valentine	159.40	"	--		
Pending suit *vs.* Amos Alexander	51.00	"	--		
" " Henderson Griffin	210.85	"	--		
" " Peter Walker	40	"	--	12	50

Total amount item----------

48 *Item Sixth. Notes and Accounts.*

An undivided one-half interest in and to the following notes and accounts owned by Mrs. Elenora E. Hall and W. D. King:

Rent note 1875, Matilda Bruon, for	48.00	app'd at	--		
" 1876, same,	64.00	"	--		
" " Patsy Comings,	16.00	"	--		
" 1875, Chas. Gilbert,	128.00	"	--		
" 1876, "	128.00	"	--		
" 1875, Alex. Green,	144.00	"	--		
" 1876, Pompey Haney,	96.00	"	--		
" " Silas Guier,	115.00	"	--		
" " Easop Kinney,	200.00	"	--		
" 1877, "	800.00	"	--	400	00
" " Addison Morgan,	240.00	"	--	120	00
" 1876, Zack Morgan,	80.00	"	--	40	00
" 1877, John McDermaid,	160	"	--		
" 1876, A. Page, for	120.00	"	--		
" 1877, Reuben Smith, "	192.00	"	--	96	00
" " Warren Thomas, "	96.00	"	--	48	00
" " Josh. Willis, "	80.00	"	--	40	00
" " Willis Davis, "	240.00	"	--	120	00
Note *vs.* Alf. Bradford, Ap'l 7, '76,	25.80	"	--		
" A. G. Belden, M'ch 13,'75, for	75.00	"	--		
" Sanco Bruon, July 30,'75, "	11.96	"	--		
" Jas. Bruon, Feb'y 20,'77, "	125.00	"	--		
" Jerry Blackburn, M'ch 31,'76,	28.21	"	--		
" Esau Coleman, for	32.00	"	--		
" Chas. Gilbert, "	165.00	"	--		
" same, "	184.19	"	--		
" Geo. Guier, "	44.53	"	--		
" W. H. Hampton, "	30.00	"	--	15	00
" Hays & Robinson, bal. due, "	50.42	"	--	25	21
" Silas Guier, Ap'l," "	50.00	"	--	7	50

49

"	Silas Guier, June, '76,	"	127.18	"	--		
"	Elizabeth Kinnedy,	"	18.70	"	--	9	35
"	Addison Morgan,	"	97.00	"	--	30	00
"	same,	"	108.30	"	--		
"	Geo. L. McWeil,	"	124.30	"	--		
"	Zack. Morgan,	"	125.00	"	--		
"	same,	"	85.49	"	--		
"	signed by Joe Miles,	"	175.00	"	--		
"	" A. Page,	"	200.76	"	--		
"	" Wm. Riley,	"	156.58	"	--		
"	" Josh. Willis,	"	136.00	"	--		
"	" Malinda Willis,	"	10.00	"	--		
"	" Jno. Wiggins,	"	3.68	"	--	1	84
"	" Williams & Wingfield,	"	152.00	"	--	26	00
"	" Henry Williams,	"	250	"	--		
"	" same,	"	210.08	"	--		
"	" Jno. Foote,	"	11.10	"	--		
"	" H'y Frazier,	"	8.06	"	--		
"	" Jas. Jackson,	"	16.50	"	--		
"	" Jake Jones,	"	2.90	"	--		
"	" Frank Johnson,	"	28.04	"	--		
"	" Jack Frazier,	"	59.85	"	--	29	93
P. J. Guier's s. d. on C. T. Morty, M'ch 4, '72, 61.53				"	--		
Rent note 1876, Sol. Crocket,		for	200.00	"	--		
"	" Sarah Carter,	for	32.00	"	--		
"	" Alex. Curtis,	"	62.11	"	--		
"	" Ann E. Conn,	"	48.50	"	--		
"	1873, P. W. De France,	"	368.68				
"	1877, Steve Davis,	"	155.25			77	63
"	1877, Harry Jackson,	"	118.05			25	00

And, not being able for the want of time to complete this inventory and appraisement, *and inventory* we adjourned same until Friday morning, Oct. the 12, 1877.

50 And on Friday, Oct. the 12th, 1877, we met pursuant to adjournment, and continued this inventory and appraisement:

Note signed July 17, '77, by A. Cunningham, for 660.00, app'd at						247	50
Ac. *vs.* C. A. Hedrick,		for	82.68	app'd at	--	41	34
"	Alex. Curtis,	"	186.50	"	--	37	50
"	Chas. Watson,	"	3.20	"	--	1	60
"	Levy Morris,	"	26.85	"	--	13	43
"	Scott Wingfield,	"	8.95	"	--	4	47
"	Henry Foster,	"	.25	"	--		12
"	Jas. Mitchell,	"	.75	"	--		38
"	Jno. Miller,	"	621.97	"	--	310	98

"	Granderson Conn,	"	739.77	"	--	184	94
"	Harrison Walker,	"	10.00	"	--		
"	Jno. McDermaid,	"	128.16	"	--		
"	Cinderella Page,	"	100.45	"	--	50	22
"	Andrew Page,	"	83.95	"	--		
"	Geo. Williams,	"	269.22	"	--	134	61
"	A. Cunningham,	"	1,497.70	"	--	374	42
"	O. C. Wossman,	"	27.90	"	--	13	95
"	Solomon Crockett,	"	740.59	"	--	250	00
"	Josh. Willis,	"	328.83	"	--	100	00
"	Abram Bass,	"	57.05	"	--	28	52
"	Sarah Jackson,	"	77.10	"	--	38	55
"	Lavina Freeman,	"	41.65	"	--	20	83
"	Betsy Davis,	"	37.75	"	--	12	50
"	Sylvia Lewis,	"	90.55	"	--		
"	Chas. Davis,	"	205.82	"	--	62	50
"	Addison Morgan,		$743.17	"	--	300	00
"	Wm. McCoy,		11.30	"	--		
"	Thos. Chapman,		1.50	"	--		75
"	Wm. Dunlevy,		118.70	"	--	59	35
"	Silas Guier,		282.47	"	--	12	50

51

Ac. *vs.*	A. C. Ruth,		7.60	"	--		
Same,	Garrison Buoyer,		5.10	"	--	2	55
"	Elias Jones,		18.45	"	--	9	22
"	Wm. H. Adams,		3.70	"	--		
"	Edmond Owens,		1.60	"	--		80
"	Wm. Hogan,		13.00	"	--	6	50
"	Rob't Williams,		27.15	"	--	13	53
"	E. Burnstein,		2.00	"	--	1	00
"	W. B. Keene,		22.91	"	--	11	45
"	Amos Alexander,		5.50	"	--		
"	John Johnson,		91.70	"	--		
"	Mose Willis,		33.75	"	--		
"	W. C. White,		43.75	"	--	21	87
"	Henrietta Willis,		28.51	"	--	14	26
"	Harriet Kinney,		71.90	"	--	20	00
"	Green Gano,		12.05	"	--		
"	John Stogner,		1.25	"	--		63
"	Henry Crony,		114.25	"	--	57	12
"	Warren Thomas,		190.96	"	--	37	50
"	Calvin Scott, 99.90, app'd 49.95; C. F. Hall, 2.95, 1.47					51	42
"	Sallie A. Fishback, 96.60, $20; C. A. Warren, 119.20, 37.56					57	50
"	Randall Bishop,		96.05		--	48	02
"	Wm. Jarrett,		121.22		--	60	61
"	Warren Jarrett,	for	113.86	app'd at	--	56	93
"	Harriet Brown,	"	65.65	"	--	32	87
"	Jno. Miller & Co.,	"	512.68	"	--	256	34
"	Clark N. Hall,	"	65.50	"	--	32	75

Ac. *vs.* David Hall,	"	49.95	"	--	24	95
" Rufus Reed,	"	.50	"	--		25
" Chas. Donalson,	"	15.96	"	--		
" Ellen Pope,	"	53.56	"	--	26	78
" Jno. L. Taylor,	"	131.07	"	--	65	53
" Steve Davis,	"	132.25	"	--	66	12
52						
" S. P. Breckenridge,	"	263.24	"	--		
" Sarah Curtis,	"	53.10	"	--		
" Rosa Noland,	"	30.15	"	--	15	07
" Harry Jackson,	"	15.65	"	--		
" Mose Green,	"	3.00	"	--		
" Letitia Richards,	"	78.05	"	--	25	00
" Allen Washington,	"	67.75	"	--	32	50
" Walter Richards,	"	255.45	"	--	75	00
" Wm. Valentine,	"	114.24	"	--	25	00
" Chas. McAllister,	"	279.18	"	--	139	59
" Easop Kinney,	"	1,226.94	"	--	125	00
" Dan'l Willis,	"	623.60	"	--	250	00
" Reuben Smith,	"	436.77	"	--	218	38
" Bosin Brown,	"	276.00	"	--	138	00
" Warren Fields,	"	61.70	"	--	31	85
" Graham, Black & Co.,	"	801.19	"	--	400	59
" C. P. Whitehead,		47.80	"	--	23	90
" parish script,		19.00	"	--		
" John Admire,		14.00	"	--		
" Troy Stewart, Jr.,		2.00	"	--	1	00
" Urias Conn,	for	3.30	"	--	1	65
" Silas Fulgum,		5.45	"	--		
" F. D. McCandless,		2.90	"	--	1	45
" Raymond Gilbert,		2.00	"	--	1	00
" Litt Williams,		.40	"	--		20
Total amount of item sixth						

Item seventh. Cash and money drawer.

An undivided ½ interest to the following:

United States currency, 57.00, ½ int.	28 50
Silver, 50.65	25 32
Money *till*, 2.50	1 25
Total amount of item seventh	55 07

53 *Recapitulation.*

Item first. Land.
Item second. Interest in stock of goods.
Item third. Stock & farming utensils.
Item fourth. Personal effects.
Item fifth. Pending suits & judgments.
Item sixth. Notes and accounts.
Item seventh. Cash & money drawer.

Thus done and inventoried and appraised in the place and manner above set forth, in the parish of East Carroll, State of Louisiana, without turning aside to other matters, and according to law, in the presence of Chas. F. Hall and C. P. Whitehead, lawful witnesses, residing in said parish and State, who hereto sign their names, together with said appraisers and me, notary, on this the 12th day of October, A. D. 1877.

CHAS. McALLISTER.
W. C. McRAE.

Attest:
C. P. WHITEHEAD.
C. F. HALL.

[SEAL.] R. J. LOUDON,
Not. Pub.

And endorsed on the back of the above and foregoing inventory are the following words and figures, to wit:

"Succession of William D. King. Inventory. Filed Oct.
54 16th, 1877. T. J. Galbreth, d'y cl'k. Filed in evidence Oct. 21st, '81. F. H. G. Taylor, d'y cl'k."

Letter of Administration.

STATE OF LOUISIANA, *Parish of East Carroll:*

Parish Court.

Be it remembered that whereas Ben E. Hall has been appointed curator of the succession of the late William D. King, deceased; and, having given bond and security and taken the oath required by law, — is therefore fully authorized and empowered to perform and discharge the duties of said appointment.

Witness the Hon. C. E. Moss, judge of said court, and the seal of said court, this the 6th day of Oct., A. D. 1877.

B. H. LAINER, *Clerk.*

And the said letter is endorsed on the back thereof [in] the following words & figures, to wit:

"Letter. Suc'r of W. D. King. Filed Oct. 16th, 1877. T. I. Galbreth, d'y clerk."

55 *Bond.*

STATE OF LOUISIANA, *Parish of Carroll:*

Parish Court.

Know all men by these presents that we, Ben. E. Hall, as principal, and Jno. A. Buckner, F. F. Montgomery, E. J. Delony, and Elenora E. Hall, as security, both of said parish and State, are held and firmly bound unto Chas. E. Moss, judge of said court, in and for said parish & State, and his successors in office, in the sum of twenty-six thousand and five & $\frac{56}{100}$ ($26,005.56) dollars, lawful

money of the United States of America; for the payment of which we bind ourselves, our heirs and legal representatives, firmly by these presents this the 16th day of October, A. D. 1877.

The condition of the above obligation is this: that whereas the above-bound Ben. E. Hall has this day been appointed by our said court as curator of the property, rights, and credits of the late Wm. D. King: Now, if the above-bound Ben E. Hall shall well and truly administer the property and effects of the said W. D. King, dec'd, and a true and correct account thereof render to our said court in the time and manner pointed out by the statutes of this State, and the said account shall be duly approved and homologated by our said court, then the above obligation to be null and void; otherwise to remain in full force and effect.

BEN. E. HALL.
J. A. BUCKNER.
F. F. MONTGOMERY.
E. J. DELONY.
ELENORA E. HALL.

I authorize Mrs. Elenora E. Hall, my wife, to sign this bond.
BEN. E. HALL.

56 [Endorsed:] Bond. W. D. King. Succession. Filed Oct. 16th, 1877. T. I. Galbreth, d'y clerk.

Administrator's Oath. Oath of Curator.

STATE OF LOUISIANA, *Parish of East Carroll:*

Parish Court.

I, Ben. E. Hall, do solemnly swear that I will faithfully perform and discharge the duties incumbent on me as curator of the succession of the late Wm. D. King, deceased, according to the best of my ability and understanding, so help me God.

(Signed) BEN. E. HALL.

Sworn to and subscribed before me this the sixteenth day of October, A. D. 1877.

B. H. LAINER,
Clk 13th District Court.

The oath is endorsed as follows:
"Oath. Succession of W. D. King. Filed Oct. 16th, 1877. T. I. Galbraith, dep'ty clerk."

57 *Petition and Authority to Execute Notes.*

To the Hon. C. E. Morse, judge of the parish of East Carroll, State of Louisiana:

The petition of Ben. E. Hall, curator of the succession of W. D. King, with respect shows that it is necessary in closing up the planting interest of said succession as well as the commercial interest, which he hopes to effect by the 1st of Feb'y next, to incur some liability, but

which is absolutely necessary for the interest of said succession; that it is — the interest of said succession that the crop now growing on the Mounds place shall be gathered, ginned, and prepared for market; that to do so it is necessary to employ cotton-pickers, purchase gin-stand and press, purchase bagging ties, &c., which liability for the purchase — said articles it will be necessary to incur to get the benefit of the growing crop on the place; that, in his judgment, it will be best to pay all the small outstanding debts of the succession and concentrate the whole into one, which he thinks can be done, and this will enable him to make such arrangements as will assist him very materially in collecting the outstanding debts due the succession of W. D. King, so far as the commercial firm is concerned, and to do so he will be compelled to procure some means to pay expenses, which will be necessary to be incurred in doing so.

58 That it is necessary to have the authority from your hon. court to make such arrangements and contract such debts as may be necessary is shown; wherefore he prays that authority be given him to contract such debts and make such arrangements for the borrowing of such money as may be necessary to close up the planting and commercial interest of said succession and in the purchase of supplies for hands, money to pay cotton-pickers, purchase and erect cotton-press, gin-stands, and complete the gin-house now being built, and also to pay small debts due by the said succession and pay expenses necessary to be incurred in collecting the debts due to the succession, and he be authorized to execute such notes and draw such drafts as may be necessary to procure such money as he may need for such purposes as herein set forth, and for general relief.

MONTGOMERY & DELONY, *Att'ys.*

Order.

Upon reading and considering the foregoing petition, it is ordered that Ben. E. Hall, curator of the succession of W. D. King, dec'd, be, and he is hereby, authorized to contract such debts and make such arrangements for borrowing such monies as may be necessary to close up the commercial and planting affairs of said succession as prayed for, and he is hereby authorized to execute such notes and draw such drafts as may be necessary to be executed and

59 drawn to accomplish such purpose.

Done and signed in chambers this 20th Oct., A. D. 1877.

C. E. MOSS,
Parish Judge.

I consent to the above and agree that the requisite order be granted herein.

J. M. NORMAN,
Agent and Attorney-in-Fact for the Heirs of W. D. King.

[Endorsed across the face in red ink:] Filed Nov. 29th, 1877. T. I. Galbreth, clerk.

And the above and foregoing petition is endorsed on the back thereof in the following words and figures, to wit: "Succession of William D. King. Petition & order for authority to execute notes, &c., for certain purposes. Filed Oct. 20th, 1877. T. I. Galbreth, d'y cl'k."

Petition and Order to Sell.

To the hon. judge of the parish court in and for the parish of East Carroll:

The petition of Ben. E. Hall, curator of the succession of W. D. King, dec'd, with respect shows that to pay the privilege debts of said succession it is necessary to sell property; that the stock of cattle and horses on the Manning place belonging to said succession are liable to estray and be lost, and it is advisable to sell said property to pay said debts.

Wherefore, the premises considered, he prays that said property be sold, as shown by the inventory, for cash, or on terms of
60 credit if they do not bring the appraised value, and for general relief.

MONTGOMERY & DELONY.

Order to Sell.

Upon reading and considering the foregoing petition, it is ordered that a writ of sale issue to Ben. E. Hall, curator of the succession of Wm. D. King, to sell the property described in said petition upon the terms therein set forth.

Done and signed in chambers this 30th day of November, 1877.

C. E. MOSS,
Parish Judge.

And the said petition is endorsed as follows, to wit: "Succession of Wm. D. King Pet. for sale. Filed November 30th, 1877. T. I. Galbreth, d'y clerk."

Motion on Curator to File Account.

To the hon. the judge of the eighth judicial district of the State of Louisiana in and for the parish of East Carroll:

Your petitioner-, Mrs. Elizabeth J. L. King, wife of James M. Norman*an*, and J. M. Norman, her husband, who joins his said wife herein for the purpose of aiding, assisting, and authorizing her, and of Eunice H. King, a *femme sole*, all residing in the county of Copiah, State of Mississippi, would respectfully make known to your honorable court that they are the sole heirs and only legal representatives of W. D. King, dec'd, late of your said parish, who died on the 25th September, leaving a large succession in your said parish, which was duly opened and has since been admin-
61 istered by Benjamin E. Hall, who was appointed curator of said succession by your honorable court, who qualified and who has since had entire control and management of the same.

Shows that although said Hall was appointed and qualified on or about the 16th of Oct., A. D., 1877, and has had ever since in possession large assets belonging to the succession, as is shown by the inventory and appraisement on file in your honorable court, he, the said Hall, has failed, neglected, and refused, and still fails, neglects, and refuses, to file any account as curator or to make any showing of his acts and doings as curator aforesaid, as by law he is required to do; wherefore, in consideration of the premises, petitioners pray that said Ben. E. Hall, curator of the succession of W. D. King, dec'd, be cited to appear and answer hereto; that he be decreed to give an account of his administration of said succession, and that he be ruled to file his provisional account as curator of said succession within fourteen days from the service of said order.

Prays for such further general relief as may to equity belong or the nature of the case may require.

FARRAR, SPENCER & FARRAR,
Atty's for Pet's.

Order to File Provisional Account.

Upon reading and considering the within petition it is or-
62 dered that Ben. E. Hall, curator of the succession of W. D. King, dec'd, be decreed to give an account of his administration of said succession, and that he be required within fourteen days from the service of this order to file his provisional account of all his acts and doings as curator aforesaid from its inception down to this present time.

This done and signed at chambers this 15th day of May, A. D. 1880.

(Signed) E. J. DELONY,
Judge 8th Judicial District.

And across the back of the above and foregoing petition are endorsed the words and figures following, to wit:

"Succession of W. D. King, dec'd. Motion & order on curator to file a provisional ac. Filed May 15th, 1880. T. I. Galbreth, d'y cl'k."

63 *Rule on Curator to File Ac.*

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

Succession of W. D. KING. No. —.

The State of Louisiana and said court to Benjamin E. Hall, curator of the succession of W. D. King, dec'd, residing in said parish and State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition of the said Mrs. Elizabeth J. L. King *et al.*, a duly certified copy of which accompanies this citation, or to de-

liver your answer to the said petition in writing in the office of the clerk of said court, held at Providence, in said parish, within fourteen (14) days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court this the 15th day of May, A. D. 1880.

ISA-C L. LEWIS, *Clerk.*

Delivered May 15th, 1880.

[Endorsed:] Eighth district court. Succession of W. D. King, dec'd. Rule on curator to file an account. Ret. & filed May 21, '80. T. I. Galbreth, d'y clerk. Citation.

Sheriff's Return.

Rec'd the within citation, together with a certified copy of
64 same & a certified copy of pl'ffs' petition, on Saturday, May 15th, 1880, and on Monday, May 17th, 1880, served same by leaving said copies with C. A. Hedrick, a person to me well known, apparently over the age of 14 years, at and residing at the residence of Ben. E. Hall, curator, &c., he being absent from home at the time in the parish of East Carroll.

JOHN ASBERRY, *Sheriff.*
By JOHN W. SCOTT, *D'y Sh'ff.*

Rule for Contempt.

PARISH OF EAST CARROLL, LOUISIANA:

8th District Court.

Succession of W. D. KING. No. 9.

To the hon. judge of the court aforesaid:

Your petitioners, Elizabeth J. R. King, now wife of James M. Norman, and of said James M. Norman, her husband, who joins and authorizes his said wife herein, and of Eunice H. King, a *femme sole*, all of whom reside in Copiah county, State of Mississippi, and the sole and only legal heirs of the aforesaid W. D. King, whose succession the defendant in this —, Ben. E. Hall, is administering as curator thereof, respectfully represents—

That on the 15th day of May, 1880, they obtained an order and decree of your hon. court against the curator of this succession, Ben. E. Hall, ordering him to file, within fourteen days from the service of said order & rule on him (s'd curator) *to file* a provisional account of all his acts & doings in said succession as curator
65 thereof, and that said order & citation thereon was served on said curator on the 17th day of May thereafter; that up to the present time said curator has utterly neglected to file said account or notice it in any manner, and has treated said order & rule with contempt; that he has not complied with the order of the court in any manner, or attempted in any manner to do so.

Wherefore, considering the premises, appearers pray that said Ben. E. Hall, curator aforesaid, may be ruled to show cause, on Saturday, the 11th day of December, 1880, at 11 o'clock a. m., why he should not be punished for contempt of your hon. court in not complying with the order aforesaid, why he should not file the aforesaid account immediately, and why he should not be dismissed from the administration of said succession.

Prays further for all necessary & proper orders in the premises.

FARRAR, SPENCER AND FARRAR &
J. M. KENNEDY, *Att'ys for Pl'ffs & Heirs.*

Upon reading and considering the foregoing petition for rule, let the prayer thereof be granted; let Ben. E. Hall, curator aforesaid, be ruled to show cause, on Saturday, the 11th day of December, 1880, why he should not be punished for contempt, as alleged and prayed for in said petition, and why he should not file instanter an account of his administration of said succession, and why he
66 should not be dismissed from said administration, and let this rule be served.

Done and signed in chambers this 10th day of December, 1880.

E. J. DELONY,
Judge 8th Judicial District.

And on the back of the above and foregoing petition are endorsed the following words and figures, to wit:

"9. Succession of W. D. King, dec'd. Rule for contempt. Filed Dec. 10th, 1880. F. H. G. Taylor, d'y cl'k."

Sheriff's Return on Petition and Order to Answer for Contempt.

Received the within rule of contempt on Friday, December 10th, 1880, and on the same day, month, & year served a copy of the same, which accompanied this original, by handing the same to Ben. E. Hall in person in the parish of East Carroll, La.

M. S. POWELL, *Sh'ff,*
By A. G. BELDEN, *D'y S.*

67 *Answer to Rule.*

8th Dist. Court, Parish of East Carroll.

Succession of W. D. KING, Dec'd.

Rule to file account.

Now comes defendant in rule, Ben. E. Hall, curator, and for answer to the rule herein denies that he has had the administration of the property of said estate since the — day of February, 1878, and alleges at said time the heirs went into possession of all the property of the estate and accepted the succession unconditionally. They sold out their half of the Mounds plantation and all the movables and property thereon & thereto attached, and also all the goods, mdse., notes, acts., judg'ts, and all the personal property of said estate, re-

taining only some overflowed lands on Joe's bayou, Coney bayou and Swan Lake, which is unproductive and which has never been in the corporeal possession of defendant in rule, and plaintiffs in rule have always paid their taxes on these said unproductive overflowed lands, & exercised acts of ownership and control over them. Defendant shows that by the acts of plaintiffs in rule he has been stripped of the administration and all control of the estate; the heirs having taken the matter into their own hands, it is now in bad grace that they file this rule; that said heirs have not only disposed of and sold all the valuable and productive property, but they
68 have caused mortgages to be imposed on said Mounds plantation & accessions & the same is now under seizure under the foreclosure of mortgages executed to them by their assigns.

Wherefore defendant prays that this rule be discharged, in view of the fact that the plaintiffs have undertaken to settle themselves the estate and have taken possession of all the property & effects thereof, and have sold out to Mrs. Elenora E. Hall all their interest in said estate except said overflowed lands; consequently they are without interest to sue out the *ex parte* rule herein.

Defendant further prays to be dismissed hence with costs & for general relief.

W. G. WYLY, *Att'y.*

And the said answer is endorsed in the following words & figures, to wit:

"No. 9. Succession of W. D. King, dec'd. Answer to rule. Filed Dec. 10th, 1880. F. H. G. Taylor, d'y cl'k.

69 *Rule to Sell Property.*

Extracts from Minutes of Dec. 7th, 1880.

THURSDAY, *Dec. 7th*, 1880.

Court met pursuant to adjournment.

Succession of W. D. KING.

Answer to rule filed fixed for Thursday next, the 9th instant.

Petition to Sell Property.

To the hon. the judge of the 8th dist. court in and for the parish of East Carroll:

The petition of Ben. E. Hall, curator of the succession of W. D. King, dec'd, with respect shows that there is against this succession an acknowledged debt of some $1,839.00 and several other claims, amounting in the aggregate to some $1,200.00 or $1,500.00, the exact amount not yet being fixed by decree of court; besides, there are court charges and attorneys' fees incurred & resulting from the pending litigation against petitioner by heirs & creditors.

Now, petitioner has taken the position in reference to these claims and the litigation aforesaid that the creditors have mistaken

their remedy; that by the sale to Mrs. Elenora E. Hall of all the productive property of this succession and all the personal property *property* thereof by the heirs in Feb'y, 1878, they have accepted the succession unconditionally and therefore become liable to all unpaid creditors; also, that after selling out all of the property
70 as aforesaid, the said heirs took possession of and controlled and paid the taxes on the residue of the property, being certain overflowed lands on Joe's bayou & Swan Lake, and have held averse possession thereof since Feb'y, 1878; from all of which petitioner has regarded the estate as closed and in possession of heirs; consequently the remaining unpaid creditors must look to the heirs and seek relief against them and not against petitioner, who holds no funds & no property (as he believes) belonging to said succession.

But, in view of the fact that the heirs of W. D. King, dec'd, have come into court and in their rules on him to file an account and for contempt have judicially admitted that petitioner is in possession of all the property on the inventory, and denied (if not in words, at least impliedly) that they are in possession, and they insist that petitioner shall proceed to wind up said succession by their pleadings and acts at the present term of court, petitioner alleges that the lands described on the inventory, situated on Joe's bayou and Swan Lake (all the lands except the Mounds plantation), set out on the inventory (the possession of which is disclaimed by said heirs), is all the property in reach of petitioners and all that can now be sold in this succession for the purpose of raising the funds to pay said outstanding claims and
71 cost and attorneys' fees necessary to wind up the succession. The Mounds plantation & accessions & all the movables thereon & all the personal property having been sold by said heirs have passed beyond the control of petitioner as executor, and besides the same is under seizure under foreclosure of mortgages executed to said heirs by Mrs. Elenora E. Hall.

Petitioner disclaims any desire to defeat the just claims of unpaid creditors of this succession, and in view of the attitude taken in this court by heirs and creditors petitioner declares his willingness to proceed to sell such property as he can to pay debts and wind up the estate; and as the lands on Joe's bayou & Swan Lake are all that is available & the only property not under seizure and in actual adverse possession that can be sold at this time, and as it is necessary, in view of the attitudes aforesaid, to sell property to pay debts & wind up this estate—

Wherefore petitioner prays that he be ordered to sell all the lands set out in the inventory (except the Mounds plantation), according to law to pay debts, & for that purpose a commission issue to petitioner.

He prays for all necessary orders & for general relief.

W. J. WYLY, *Att'y.*

Order to Sell.

Upon reading & considering the foregoing application for
72 sale of property of the succession of W. D. King to pay debts without considering or passing upon the issues raised thereon as to the heirs, and holding that all the property of said succession as shown by the inventory is subject to the debts due by the same—

It is ordered that sufficient property of said succession be sold to pay the same and a commission issue to the curator to make said sale according to law.

Done and signed in chambers this 27th day of December, A. D. 1880.

E. J. DELONY,
Judge 8th Judicial Dist.

And the above petition is endorsed as follows:

"Succession of W. D. King, dec'd. Application to sell property. Filed Dec. 28th, 1880. C. A. Hedrick, — 8th dist. court.

Answer to Rule for Contempt.

8th District Court in & for the Parish of East Carroll.

Succession of W. D. KING. No. 9.

Rule for contempt.

Now comes Ben. E. Hall and alleges he intended no disrespect *for* this hon. court in not answering to the — file an account earlier. His answers for not doing so are these:

1st. The plaintiffs in rule, the alleged heirs of W. D. King, have no interest in the matter, having long since sold out all the
73 property that was productive, all the personal property, notes, & acs., suits, & judg'ts, and also the undivided half of the "Mounds plantation," and all the movables thereon—indeed, everything on the inventory of this succession, except the wild and overflowed lands on Joe's bayou and Swan Lake, appraised at about $100 per acre (incapable of being made productive on account of an-ual overflows), which said wild & abandoned lands were taken possession of by said alleged heirs, who have paid the taxes thereon for years and exercised all the rights of ownership thereon of which they are capable; and the said overflowed lands have never been in defendant's corporeal possession; that shortly after the death of W. D. King, and before defendant had hardly done anything more than to open the succession, the said heirs went into possession of all the property of the estate, accepting the succession unconditionally, and they sold to Mrs. Elenora E. Hall, the then surviving partner of W. D. King, the half of the "Mounds plantation" and accessions thereto, together with the store thereon, goods, mdse., notes, acs., suits, & judg'ts—indeed, everything on the inventory, except the said abandoned and overflowed lands on Joe's bayou & Swan Lake, which said heirs still control & possess. In said purchase the

said Mrs. Hall assumed the payment of all the debts
74 of the succession, and in pursuance of said assumption she paid the large mortgage debt of $10,000.00 to Graham, Black & Co., and all the debts of deceased except the fees of the attorneys of the succession, Montgomery & Delony, and a claim of about $400.00, set up by Dr. Hays for professional services, against which there is a good defense, because he had never recorded his license as a physician as required by statute and could not collect fees for services, and this claim seems to be abandoned, as the suit has not been pressed lately. As to the claim of Montgomery & Delony, they held for collection a number of claims & suits in the name of W. D. King, or suc. of W. D. King, but the counter letter on record shows that one-half thereof belonged to Mrs. Hall, and she acquired the other half by said purchase from plaintiffs in Feb'y, 1878.

2nd. Defendant shows it is unreasonable and unjust for plaintiffs to take out these *ex parte* proceedings against him, because said succession has been closed as to them by their own acts, and they are estopped by deed from controverting the fact of the settlement of the succession and the complete divestiture of their title as heirs, except as to the overflowed lands, which they already pos-ess.

3rd. Plaintiffs have transferred and sold the mortgage notes received for the price of the sale by them to Mrs. Hall, and all
75 the property on the inventory (except the said overflowed lands) are now under seizure and in possession of the sheriff under the foreclosure of said mortgage notes.

4th. That Mrs. Elenora E. Hall is dead, and defendant is the legal representative of her succession and holds the same under administration, and her mortgage creditors, T. L Aivey & Co., have seized all her property, including the purchase of Feb., 1878, from plaintiffs as heirs of W. D. King.

5th. That all of said property is also under seizure by proceeding- under the judgment of Bryan P. Scally *vs.* A. Keene Richards *et als.*, No. — on the docket of this hon. court.

6th. That the sole cause of complaint of plaintiffs, as stated by their counsel to defendant, is that the succession of Mrs. Hall has failed to pay the fees of the Honorable E. J. Delony and his law partner, F. F. Montgomery, as attorneys of suc. of W. D. King, in pursuance of the assumption by her in the sale to Mrs. Elenora E. Hall by plaintiffs as heirs of W. D. King.

7th. That these rules ought not to be taken out by plaintiffs simply because Mrs. Hall died without carrying out this part of the agreement, and defendant as the legal representative of her estate has been unable to pay said fees of Montgomery & Delony out of her estate because all the property thereof has been
76 seized and taken out of possession of defendant by the mortgage creditors of Mrs. Hall under foreclosure of their mortgages, and indeed there is no legal cause for these *ex parte* rules.

Defendant disclaims any disrespect to this honorable court and avers before he was served with this rule for contempt, or had any knowledge thereof, his counsel had already filed an answer for this rule to file an account, and the same is on file among the papers.

Wherefore defendant prays that this apology be accepted and the answer now made and the answer heretofore filed to these rules of plaintiffs be held to be good and he be discharged and said rules set aside with costs, and for general relief.

W. G. WYLY, *Att'y.*

Curator Swears that His Answers are True.

Personally appeared before the undersigned authority defendant, Ben. E. Hall, who, being duly sworn, deposes & says the allegations of the foregoing answer are substantially true and correct.

BEN. E. HALL.

Sworn to & subscribed before me this the 15th day of Dec., 1880.

F. H. S. TAYLOR,
D'y Cl'k, 8th Dist. Court.

77 And on the back of the above and foregoing answer are endorsed the following words and figures, to wit:

"No. 9. Succession of W. D. King, dec'd. Answer to rule for contempt and answers to both rules. Filed Dec. 23rd, 1880. F. H. S. Taylor, d'y cl'k."

Curator Accepts to Rule for Contempt.

8th District Court, Parish of East Carroll.

Succession of W. D. KING. No. 9.

Rule for contempt to file ac. and to dismiss curator.

Defendant in rule *accepts* to plaintiff's rules—

1st. Because, unless they have appeared and been recognized by the court as heirs, they have no standing in court to justify the suing out of *ex parte* rules by them; and the plaintiffs in rule have never been recognized by this court as heirs.

2nd. Defendant *accepts*, if they had the said standing as heirs in court, plaintiffs are without interest to take these rules, because in Feb., 1878, they sold out all their interest in the estate to Mrs. Elenora E. Hall, except the wild or abandoned and overflowed lands on Swan Lake & Joe's bayou, and whatever interest they had in the productive property and all the movable property in the in-

78 ventory passed by their assignment to Mrs. Hall and their — estopped by deed from contradicting the same as against defendant, curator of King's succession and executor of Mrs. Hall's last will & testament.

That it is idle for this hon. court on their application to require an account from defendant for the revenues and crops of the "Mounds plantation," and all the notes, claims, and judgments and movable property set out on the inventory when by their deed of the 28th of Feb., 1878, the said heirs are estopped from setting up claim to any part of said productive realty and to any part of the movables on the inventory.

3rd. As to that branch of the rule looking to the destitution of defendant as curator he *accepts* that that matter cannot be enquired into by rule —, and administrator can only be removed by a direct action. See 28th A., 323; 22nd A., 94; 9th R., 350; C. P. 1017 & 1018.

Wherefore defendant in rule *accepts* to all of said rules and *ex parte* orders sued out by plaintiffs, and pray- that they be discharged with costs.

W. G. WYLY, *Att'y.*

Curator Answers Rule for Contempt.

79 Now comes defendant, and, reserving the benefits of the foregoing exception in case *they are* overruled and fearing he may be held in contempt of court, and makes answer and disclaims under oath any intention to disobey the orders of court or act in contempt of its authority, which said sworn answer is made part hereof, marked "A," and is filed herewith, and the allegations and prayer thereof be taken as part of this answer; and also fearing he may be held in contempt, defendant presents herewith his account and statement of debts paid by him, and also the vouchers, showing said payments made by him exceed by $692.08 the funds of the successions arising from the sale of personal property and otherwise coming into his hands, which said account is marked "B," and filed herewith, and also the vouchers marked from 1 to 19, inclusive, are filed herewith.

This account and answers defendant alone presents in case the foregoing exceptions is overruled, and not otherwise. Another motive for filing them before the exception is disposed of is fear that the motive of defendant in authorizing an account may be misunderstood, & he be held in contempt of court.

80 Wherefore, in case the foregoing exception is overruled, defendand prays that this answer and the sworn answer, which is presented as a part hereof, may be accepted by the court, & on showing that the allegations thereof are true that there be judgment in his favor, & that the account be homologated and he have judgment against succession of King for said $692.08, amount paid by him beyond funds in his hands; that the rule be discharged with costs, & for general relief.

W. G. WYLY, *Att'y.*

"B."

Curator Files His Provisional Account.

Ben E. Hall, curator, in account with the succession of W. D. King, dec'd.

1877.			
Oct. 17.	To money on hand as per inventory	$55 07	
Dec. 19.	To proceeds of sale of stock as per return on writ of sale	329 00	
	Bal. due curator	692 08	
			$1,076 15

CREDITS.

By amount paid for succession as per vouchers as follows:

1877.					
Sept.	25.	Paid	to Miller & Co. for coffin. Voucher No. 1	12 00	
	29.	"	Carroll Conservative. Voucher No. 2	1 50	
Oct.	17.	"	R. J. London, notary public for inventory. Voucher No. 3.	100 00	
Nov.	1.	"	Melville store. Voucher No. 4.	2 00	
	10.	"	A. C. Ruth " 5.	24 00	
	17.	"	Melville store. " 6.	1 25	
	22.	"	J. Stein & Co. " 7.	6 45	
	30.	"	clerk of court fees. Voucher No. 8	22 00	
Dec.	1.	"	Carroll Conservative. Voucher No. 9	2 00	
	8.	"	same. Voucher No. 10	3 00	
	19.	"	half of taxes for 1876. Voucher No. 11	111 05	
			To am't carried forward	285 25	
81			Amount forwarded		1,076 15
			" "	285 25	
Dec.	17.	Paid	Granderson Conn & others for driving stock to Providence for sale. Voucher 12	43 50	
Dec.	17.	Paid	Mess. Hayes & Rous. Voucher 13	8 25	
1878.					
Jan.	1.	"	John Martain " 14	2 00	
M'ch	5.	"	F. M. Melnse " 15	4 40	
	12.	"	J. W. Erwine, ag't " 16	80 00	
June	4.	"	C. M. Pilcher, att'y for absent heirs. Voucher 17	100 00	
A'g't	5.	"	C. P. Whitehead, M. D. Voucher 18	142 00	
1879.					
Dec.	31.	"	Montgomery & Delony. Voucher 19	410 75	
					1,076 15

By bal. due curator, $692.08.

82 Voucher No. 1.

SEPT. 25TH, '77.

Making coffin for W. D. King, $12.00.

MILLER & CO.,
WM. DUNLEVY.

Voucher No. 2.

Carroll Conservative.

PROVIDENCE, LA., *Sept. 29th*, 1887.

M-rs. Montgomery & Del-ny to adv. notice for Mr. Hall.

1 sq'r., 3 insertions.
Rec'd payment,

D. L. MORGAN,
Per R. L. JONES.

Voucher No. 3.

This is to certify that Ben. E. Hall, curator of the succession of W. D. King, dec'd, paid to us for Rob't J. London, notary public, one hundred dollars for his fee for taking the inventory of said succession, which was completed on the 17th day of Oct., A. D. 1877.

E. J. DELONY.

Voucher No. 4.

MELVILLE, LA., *Nov. 1st*, 1877.

Mr. W. D. King bo't of Melville store.

June 8.	To ½ pint corrosive liniment	$1 00
Sept. 12.	To c-loral hydrate	1 00
		$2 00

Rec'd payment,

GEO. RITTER,
Per B.

83

Voucher No. 5.

MOUNDS PLANTATION, *Sept. 9th*, 1877.

W. D. King *in* Co. to A. C. Ruth.

Sept. 9, 1.50; 11th, 1.50; 12th 1.50; 13th, 1.50; 14th, 1.50; 15th, 1.50	$9 00
16th, 1.50; 17th, 150; 18th, 1.50; 19th, 1.50; 20th, 1.50; 31st, 1.50	9 00
22nd, 1.50; 23rd, 1.50; 24th, 1.50; 25th, 1.50	6 00
	$24 00

Rec'd payment of Ben. E. Hall, curator of W. D. King's estate,

A. C. RUTH.

Nov. 10, '77.

Voucher No. 6.

MELVILLE, LA., *Nov.* 17, '77.

Mr. J. C. Purdy to Geo. R. Ritter.

1877.
Aug. 17. To recipe on order for W. D. King, $1.25.
Paid.

GEO. RITTER.
Per F. B.

Voucher No. 7.

ALSATIA LANDING, LA., *Nov. 22nd*, 1877.

Mr. Ben. E. Hall for estate of W. D. King, bought of J. Stein & Co.

To coffin trimmings, $6.45.
Paid.

J. STEIN & CO.

Voucher No. 8.

Succession of W. D. King to clerk [of] court, Dr.

To am't costs due to Nov. 30, '77, $22.00.
Received payment,

T. I. GALBRETH, *D'y Cl'k.*

84 Voucher No. 9.

The Carroll Conservative.

PROVIDENCE, LA., *Dec. 1st*, 1877.

Ben. E. Hall.

To inserting notice of sale, 1 t., $2.00.
Received payment of B. E. Hall, adm'r.

D. L. MORGAN.

Voucher No. 10.

The Carroll Conservative.

PROVIDENCE, LA., *Dec. 8th*, 1877.

Succession of W. D. King.

Notice of sale twice, $3.00.
Paid by Ben. E. Hall, adm'r.

D. L. MORGAN.

Voucher No. 11.

No. 787. State of Louisiana, parish of East Carroll. State and parish taxes for 1876.

DEC. 10*th*, 1877.

Received of Mr. B. E. Hall, ad'm'r, two hundred and two $\frac{10}{100}$ dollars, amount of State and parish taxes for the year 1876 on the property, etc., described on the reverse hereof, in accordance with law, the same being taxes assessed against the estate of W. D. King.

$222.10.

T. K. G. TAYLOR,
Tax Collector

[Written across the face in red ink:] Real estate, $6,879. Live stock, $175. Capital employed in trade and commerce, $2,000.

Voucher No. 12.

LAKE PROVIDENCE, LA., *Dec.* 17*th*, 1877.

Mr. B. E. Hall, adm'r of est. W. D. King, bought of Hays & Runs.

Dec. 17. 2 bales hay, 400–377,775, @ 20, $7.75. Drayage, .50. $8.25.
Received payment,

HAYS & RONS.

85 Voucher No. 13.

JANUARY 23, 1878.

Estate of W. D. King to Granderson Conn, Dr.

Paid Urias Conn, 7.00; paid Granderson Conn, 7.50	$14	50
" A. Mershon, 2.50; " Anthony Mershon, 2.50	5	00
" A. Page, 2.50; Paul Jones & Son, 5.00	7	50
" Wm. Lee, 1.50; John Taylor, 5.00	6	50
" Elijah Taylor, 10.00	10	00
	43	50

The above amounts paid for driving stock to Lake Providence for sale on Dec. 19th, 1877.

GRANDERSON CONN.

Voucher No. 14.

LAKE PROVIDENCE, LA., *Jan.* 1*st*, 1878.

Mr. B. E. Hall, bought of John Martin.

1877.			
Dec. 3.	17½ bbls. steak, 6½ ℔ beef, 4 ℔ sausage	3	05
8.	5 ℔ sausage, kidneys, and soup-bone	1	25
10.	9½ ℔ steak, 6 ℔ beef	1	80
19.	5 ℔ sausage	1	00
20.	Use of lot for cattle	2	00

Rec'd pay't,

JOHN MARTAIN, JR.

Voucher No. 15.

W. D. King & Co., in ac. F. M. Melrose, ag't.

1877.

Dec. 18.	8 — for 2 horses @ 40c	$3	20
	3 — " grey colts @ 40c	1	20
		4	40

Received payment,

F. M. MELROSE.

Lake Providence, La., M'ch 5, '78.

86 Voucher No. 16.

MOUND'S STORE, *March 12th*, 1878.

We, the undersigned, have this day compromised the suits of J. W. Erwin, ag't, *vs.* W. D. King and W. D. King *vs.* Amos Alexander on condition that B. E. Hall pays J. W. Erwin, ag't, eighty dollars, and the expenses of both suits are to be equally divided between Erwin & Hall.

J. W. ERWIN, *Ag't.*
BEN. E. HALL, *Ag't.*

Voucher No. 17.

PROVIDENCE, *June 4th*, 1878.

Received of Ben. E. Hall, administrator of succession of W. D. King, one hundred dollars in full of all demands for professional services rendered as att'y for absent heirs by virtue of my appointment as such, made by the probate court of the parish of East Carroll.

CHAS. M. PILCHER,
Att'y for Absent Heirs.

Voucher No. 18.

Estate of W. D. King, Dr., to C. P. Whitehead.

1877.

Aug. 5. For medical service rendered in last illness, $142.00.
Settled by store ac. in full.

C. P. WHITEHEAD.

87 Voucher No. 19.

PROVIDENCE, LA., *Dec. 31st*, 1879.

The account of Montgomery & Delony against the succession of W. D. King for legal services rendered in suits previous to death of King for $1,250 00
Settled by allowance of account against them, which they all owe 410 75

Leaving a balance due them of $839 25

Which is acknowledged by B. E. Hall, adm'r, payable in due course of administration, with 8% from the 1st Jan'y, A. D. 1880.

E. J. DELONY,
For MONTGOMERY & DELONY.

Each of the above and foregoing vouchers are endorsed across the back [in] the following words & figures, to wit:
Filed Dec. 23rd, 1880. F. H. G. Taylor, d'y cl'k.

Ruled to Sell Property.

Extract from Minutes of Dec. 11th, 1880.

Succession of W. D. KING.

SATURDAY, *Dec. 11th*, 1880.

Court met pursuant to adjournment.

* * * * * * *

This case was taken up for trial, his honor, Judge J. Harvey Brigham, judge of sixth judicial district, presiding. Judgment for plaintiffs, ordering the rules to be made absolute, and that the property of the succession of W. D. King be sold to pay this debt. See decree.

88 On motion of defendant's counsel, devolutive & suspensive appeals granted defendant upon giving bond conditioned according to law for devolutive appeal in the sum of thirty dollars, and in the suspensive appeal in amount fixed and according to law, counsel for both parties being present in open court & taking cognizance thereof, said appeals being returnable to the hon. circuit court of appeals, sitting in the parish of East Carroll on the second Monday in April next, 1881.

89 *Witness of Sale.*

STATE OF LOUISIANA, *Parish of East Carroll:*

8th Dist. Court.

In the Matter of the Succession of W. D. KING, Dec'd.

The State of Louisiana and said court to Ben. E. Hall, curator, &c., residing in said parish & State, Greeting:

In pursuance of an order rendered by the judge of said court on the 27th day of December, A. D. 1880, in the above matter, you are hereby commissioned, empowered, and required to sell according to law sufficient property belonging to said succession to pay the debts outstanding against the same, and of how you have executed this writ make due return of your proceedings herein to our said court as the law directs.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this the 31st day of Dec., 1880.

[L. S.] C. A. HEDRICK, *Clk*,
By F. H. G. TAYLOR, *D'y Clk.*

Curator's Return on Writ of Sale.

Received the within writ of sale on Friday, the 31st day of December, A. D. 1880, and duly advertised for sale at the door of the court-house in the town of Providence, in the parish of East Carroll,

& State of Louisiana, the property hereinafter described in the "Lake Providence Herald," a newspaper published weekly in said parish, to be sold at the place aforesaid on Saturday, the 5th
90 day of February, A. D. 1881, between the hours prescribed by law, for cash, according to inventory, to wit, an undivided half interest in and to the following particle —: The half of the S. E. ¼ sec. 5; the whole of section 18, lots 1, 2, 3, 4, 5, 6, and 12 of sec. 18, and that portion of land commencing at Swan Lake, between sec. 7 & 18; thence north to Joe's bayou; thence along Joe's bayou to the range line, between ranges 11 & 12; thence south to a "steak-" at the south W. corner of sec. 7, all in township No. 20, range 12 east; also south ½ of S. E. ¼ of sec. 12 and the east half of sec. 24, township 20, range 11 east, the undivided ½ being eight hundred and sixty-two $\frac{6}{100}$ acres.

Also all the following-described property, to wit: The north E. corner of the north W. quarter west of Joe's bayou, in sec. 35, fourteen acres; and the south E. quarter of sec. 35, 163 acres, in township No. —, range No. —, containing — the aggregate 177 acres; also the undivided ½ of the following lands, to wit: The north ½ of sec. No. 6, township No. 20, range 12 east, 331.20 acres; also 119.84 acres of the north part of sec. No. 5, to be divided by a parallel line running east & west, so as to make the total of five hundred and twenty-three $\frac{04}{100}$ (523.04) acres, being known as the "Lick Skillet" place, the one half being 261.54 acres.

91 Also the following described lands, to wit: The W. ½ of N. E. ¼ and twenty-four $\frac{50}{100}$ acres in the south portion of the N. W. ¼ of section 25 that lies east of Joe's bayou and numbered on plat as lot No. 5, all in township No. 20, range 11 east, containing 186.68 acres; also the S. ½ of S. W. ¼ of sec. No. 24, same township & range, containing eighty-two (82) acres, and containing in the aggregate two hundred and sixty-eight $\frac{68}{100}$ acres, and on said days of sale, at the place aforesaid, between the hours drescribed by law, after reading the foregoing writ and advertisement of sale, I offered said property for sale at public auction in an audible voice; whereupon Silas W. Davis became the purchaser of the said half interest of the tract first described herein, said half interest being 862.06 acres, for the price and sum of dollar (1.00) per acre, amounting to the sum of eight hundred & sixty-two ($862.06) dollars, which he paid in cash, that being the appraised value of said lands, and Francis M. Hays and James M. Defee became the purchasers of the said undivided half interest in the "Lick Skillet place," hereinbefore described, said half containing 261.54 acres, for the price & sum of $1.00 per acre, amounting to two hundred and sixty-one $\frac{54}{100}$ dollars, which they paid in cash, that being the appraised value of said land, and the said
92 Davis and the said Hays and Defee, being the highest bidders for said property, the same was adjudicated to them, respectively, as purchased.

There being no bidders for the two other tracts of land described herein, the same *was* not sold.

(Signed) BEN. E. HALL, *Curator.*

Returned and filed Feb'y 7th, 1881.

F. H. G. TAYLOR, *D'y Cl'k.*

Curator Asks for Homologation of Provisional Ac.

To the hon. the judges of the 8th district court in and for the parish of East Carroll:

The petition of Ben. E. Hall, adm'r of the succession of W. D. King, with respect shows that he presents herewith his account of administration of said succession tableau of debts allowed and paid by him, marked Exhibit "A," and also the vouchers for each item, from one to 28 inclusive, made part hereof. Said account and tableau made part hereof show that the petitioner has received $1,123.60, and he has actually paid out to *bona fide* creditors $2,119.32, $611.65 in excess of receipts.

Petitioner shows that he has made this account pursuant to and out of respect for the orders of this hon. court, although as a matter of fact he insists that the heirs accepted the succession when
93 they sold the Mounds plantation and all the productive property of the succession, and thereby became individually liable to creditors; but as they have insisted that petitioner is still adm'r, and have called for an account and the court has so ordered, petitioner presents herewith his account.

Wherefore petitioners prays that your honor order this his account & tableau to be filed, and the notice thereof published according to law, and after legal delays that the same be approved and homologated, and that each iteam thereof be made the judgment of the court, and that petitioner recover of said succession the sum of six hundred and eleven $\frac{65}{100}$ dollars, the amount paid out in excess of cash received by him.

Petitioner prays for all necessary orders and decrees and for general relief.

W. G. WYLY, *Att'y.*

Notice of Filing of Account.

Upon reading and considering the foregoing petition, it is ordered that due legal notice be made of the filing of the same, and that if no opposition be made thereto within the delays required by law the same will be homologated.

Done and signed in chambers this the 11th day of June, A. D. 1881.

E. J. DELONY,
Judge of the 8th Judicial Dist.

94 And endorsed on the back of the above and foregoing petition are the following words and figures, to wit: "No. 9. Succession of W. D. King. Provisional ac. Filed June 11th, 1881. F. H. G. Taylor, d'y clerk.

Curator Files Provisional Acc't.

DR.

1881.			
Feb'y 5th.	To proceeds for sale of lands, as per return on writ of sale		$1,123 60
	Balance due curator	$611 65	2,119 32

CREDITS.

1881.			
January —.	Paid sh'ff's costs, suit ※823, W. D. King *vs.* J. A. Gla. Voucher 20*		$2 20
"	Paid sh'ff's costs, suit ※2094, B. E. Hall, curator, *vs.* D. Willis. Voucher 21		3 30
"	Paid S. D. Oliver, for making out ac., Dec. 23d, 1880. Voucher 22		25 00
" 15.	Paid printers [for] advertising sale of lands. Voucher 23		15 00
Feb. 5.	Paid — deeds to lands sold. Voucher 24		15 00
" "	Paid judg't [in] favor of Montgomer- & Delony on rule in suit ※15, 8th dist. court. Voucher 25		839 25
	8% int. on same from Jan. 1, '80, to May 1, '81. Voucher 25		89 52
	To clerk's costs in same suit. Voucher 26		20 10
	" sh'ff's " " " 27		8 80
	" S. D. Oliver, for making out this account. Voucher 28		25 00
			2,119 22

[Endorsed:] ※823. W. D. King *vs.* Jacques A. Gla.

PARISH OF CARROLL, LA., *July 1st*, 1878.

Succession of W. D. King to S. D. Oliver, sheriff, Dr.

1878.

April 23. Citation & petition, 2.00; mileage, 20c. $2 20

Received payment from B. E. Hall, curator,

95 S. D. OLIVER, *Ex-Sh'ff.*

* For entries from vouchers 1 to 19 see page 80.

Voucher No. 21.

Ben. E. Hall *vs.* Dan'l Willis. 2094.

PARISH OF CARROLL, LA., *July 1st*, 1878.

Mr. Ben. E. Hall, curator, to S. D. Oliver, sheriff, Dr.

1878.

M'ch 6. Cit., pet., & sequestration, $4.00; mileage, $1.80---- $5 80
Apr. 1. By cash for advance fee ---------- 2 50

$3 30

Received payment from B. E. Hall, curator,
S. D. OLIVER, *Ex-Sh'ff.*

Voucher No. 22.

Received, Lake Providence, La., Jan'y, 1881, from Ben. E. Hall, curator of the succession of W. D. King, dec'd, twenty-five dollars for going to Mounds plantation and making out provisional account for said curatorship Dec. 23, '80.

S. D. OLIVER.

Voucher No. 23.

LAKE PROVIDENCE, LA., *Jan'y 15th*, 1881.

Mr. W. G. Wyly to the Lake Providence Herald, Dr.

To publishing succession sale of W. D. King, Ben. E. Hall, curator, 4 weeks---------- $15 00

Rec'd payment,
F. BARLOW.

Voucher No. 24.

Rec'd, Lake Providence, La., Feb. 5th, A. D. 1881, from Ben. E. Hall, curator of the succession of W. D. King, fifteen dollars for writing up return on writ of sale and two deeds, one to S. W. Davis & the other to Hays & Defee, for lands sold this day.

S. D. OLIVER.

96 Voucher No. 25.

Rec'd, June 4th, 1881, of Ben. E. Hall, adm'r of W. D. King's succession, the sum of nine hundred and twenty-eight $\frac{77}{100}$ dollars, am't principal and interest due us on acknowledged claim against said successions. P'd on La. National Bank.

$928.77.

MONTGOMERY & DELONG.

Voucher No. 26.

Succession of W. D. King. No. 15.

PARISH OF EAST CARROLL, LA., *Apr.* 11, '81.

Mr. Ben. E. Hall, curator, to C. A. Hedrick, clerk, Dr.

Costs from July 13, '81, to M'ch 8, '81 ..... $20 00

Rec'd pay't Apr. 16, '81, from B. E. Hall, curator,
F. H. G. TAYLOR, *D'y Cl'k.*

Voucher No. 27.

Montgomery & Delong *vs.* Ben. E. Hall, adm'r.

Mr. Ben. E. Hall, adm'r, to M. S. Powell, sheriff, Dr.

1880.

June 29. To cip. & pet., $2.00; mileage, $2.80 ..... $4 80
Dec. 11. " serv. rule, $2.00; pet. of creditors, $2.00 ..... 4 00

$8 80

Paid by B. E. Hall, cur., Apr. 16, '81.

M. S. POWELL, *Sh'ff.*

Voucher No. 28.

Received, Lake Providence, La., Apr. 16th, 1881, from B. E. Hall, curator of the succession of W. D. King, dec'd, twenty-five dollars for going to Mounds plantation and making out provisional account of his curatorship.

S. D. OLIVER.

97 *Application for Homologation of Provisional Ac. of Ad'm.*

Extract from Minutes of dist. court of Dec. 10, '81.

SATURDAY, *December 10th*, 1881.

Court met pursuant to adjournment.

Succession of W. D. KING.

In this case the judge, being personally interested, recused himself, and appointed Judge J. Harvey Brigham, of 6th district court, to try the same.

Extract from Minutes of Circuit Court of Appeals of Nov. 14th, 1881.

Circuit Court of Appeals.

MONDAY MORNING, *Nov. 14th*, 1881.

Second circuit court having been called on this the 14th day of November, A. D. 1881, at the hour of eleven o'clock a. m., there were present their honors Oren Mayo and Andrew A. Gunby, circuit judges, * * * and the following proceedings were had:

* * * * * * *

Rule to Sell Property.

Succession of W. D. KING. No. 13.

Curator asks for an order to sell property.

This case, on motion filed by the atty's representing both parties, is dismissed.

To the hon. the judge of the eighth district court in and
98 for the parish of East Carroll:

The petition of Ben. E. Hall, curator of the succession of W. D. King, dec'd, with respect shows—

That there are debts due by the deceased amounting, in the aggregate, to some $1,200.00 or $1,500.00, besides there are court charges and attorneys' fees, incurred and resulting from the pending litigation against petitioner by heirs and creditors, and besides there are taxes now due which cannot be paid for want of funds. Now, petitioner has taken the position in reference to these claims and the litigation aforesaid that the creditors have mistaken their remedy; that by the sale to Mrs. Elenora E. Hall of all the productive property of this succession and all the personal property thereof by the heirs in Feb'y, 1878, they have accepted the succession unconditionally, and therefore become liable to all unpaid creditors; also that after selling all the property aforesaid the said heirs took possession of and have controlled & paid the taxes on the residue of the property, being certain overflowed lands on Joe's bayou & Swan Lake, and have held adverse possession thereof since Feb'y, 1878; from all of which petitioner has regarded the estate as closed
99 and in possession of him; consequently, the remaining unpaid creditors must look to the heirs and seek relief against them and not against petitioner, who, according to his theory and belief, holds no funds & no property belonging to said succession.

But in view of the fact that the heirs of W. D. King, dec'd, have come into court and, in their rules on him to file an account and for contempt, have judicially admitted that petitioner is in possession of all the property on the inventory, and denied (if not in words, at least impliedly) that they are in possession, and they insist that petitioner shall proceed to wind up said succession by their proceedings now pending in court, petitioner alleges that the lands described in the inventory situated on Joe's bayou and Swan Lake (all the lands except the Mounds plantation), set out on the inventory, are all the property in the reach of petitioner, and all that can now be sold in this succession for the purpose of raising funds to pay said outstanding claims and costs and attorneys' fees necessary to wind up this succession.

The Mounds plantation and accessories, and all the movables thereon, having been sold by said heirs, *have* passed beyond
100 the control of petitioner as curator; besides, the same is now under seizure by virtue of the foreclosure of certain mortgages executed to said heirs by Mrs. Elenora E. Hall.

Petitioner disclaims any desire to defeat the just *just* claims of unpaid creditors of this succession, and, in view of the attitude taken in this court in pending cases by heirs & creditors, petitioner declares his willingness to proceed now to sell such property as he can to pay debts and wind up the estate; and as the lands on Joe's bayou and Swan Lake and Jump Log are all that are available and the only properties (not under seizure and in actual adverse possession) that can be sold at this time, and as it is necessary in view of the attitude aforesaid, to sell property to pay debts and wind up the estate:

Wherefore petitioner prays that he be ordered to sell all the lands set out on the inventory (except the Mounds plantation now under seizure by executory process aforesaid) according to law to pay debts, and for that purpose that a commission issue to the sheriff. He prays for all necessary orders and for general relief in the premises.

W. G. WYLY, *Att'y.*

101 *The Sheriff is Authorized to Sell Property.*

The foregoing application considered, it is ordered that the property of said succession be sold as prayed for, and that a commission issue to the sheriff to make said sale in order to pay debts of the estate.

Read and signed on this the 16th day of November, 1883.

E. J. DELONY,
Judge 8th Judicial Dist.

And the foregoing petition is endorsed as follows:

"Succession of W. D. King, dec'd. Application to sell property. Filed Nov. 16th, 1883. F. H. G. Taylor, d'y cl'k."

102 STATE OF LOUISIANA, *Parish of East Carroll:*

8th Dist. Court.

In the Matter of the Succession of W. D. KING, Dec'd.

The State of Louisiana & said court to M. S. Powell, sheriff of the parish of East Carroll, Greeting:

In pursuance of an order rendered by the hon. judge of the 8th dist. court of the State of Louisiana in and for said parish of East Carroll on this the 16th day of November, A. D. 1883, you are hereby commissioned, empowered, and required to sell, according to law, for cash, for the purpose of paying debts, the following described lands belonging to said succession of Wm. D. King, dec'd, viz: An undivided half interest in & to the following-described property: The half (½) of the S. E. ¼ of sec. (5) five, the whole of sec. eighteen (18), lots one (1), two (2), three (3), four (4), five (5), six (6), & twelve (12) of section (19) nineteen, and that portion of land commencing at the corner of Swan Lake between sections seven (7) and eighteen (18), thence north to Joe's bayou; thence along Joe's bayou to the range line between [sections] eleven (11) & twelve (12); thence south to a stake

at the S. W. corner of sec. seven (7), all in township No. (20) twenty, range twelve (12) east; also south half (S. ½) of S. E. ¼ of sec. twelve (12), and east half (E. ½) of sec. twenty-four (24), T. 20, range
103 eleven east, district of lands north of Red river, La., known as "Manning place;" the undivided one-half of above described tract being eight hundred and sixty-two $\frac{6}{100}$ (862.06) acres.

All the following-described property, to wit: Northeast corner of the northwest quarter, west of Joe's bayou, in sec. thirty-five (35), fourteen acres; and southeast one-fourth (S. E. ¼) of sec. (35) thirty-five, one hundred and sixty-three acres, containing in the aggregate one hundred and seventy-seven (177) acres, T. 20, R. 11, known as "Cable" tract.

The undivided half or part of the following tract of land, to wit: North half of sec. six (6), township twenty (20), range twelve east, three hundred and thirty-one $\frac{20}{100}$ acres; also one hundred and ninety-one $\frac{84}{100}$ acres of the north part of sec. (5) five, to be divided in a parallel line running east & west, so as to make the total of five hundred and twenty-three $\frac{4}{100}$ (523.04), being known as the "Lick Skillet place," T. 20, R. 12.

The following-described property or tract or parcel of land known as "Nash" tract: The west half (W. ½) of (N. E. ¼) northeast quarter, and twenty-four $\frac{50}{100}$ (24.50) acres in the south portion of northwest quarter, N. W. ¼, of sec. twenty-five (25) that lies east of Joe's bayou, and numbered on plat as No. five (5); also E. ½ of N. W. ¼, all in township No. twenty (20), section 25, range eleven east, containing
104 82.8 acres; — containing one hundred and eighty-six $\frac{68}{100}$ acres; also south half of southwest quarter of section No. twenty-four, township No. 20, range eleven 11 east, cont'g 82, eighty-two, acres, containing in the aggregate two hundred and sixty-eight $\frac{68}{100}$ (268.68) acres, more or less, T. 20, R. 11.

And of how you have executed this writ make due return to our said court as the law directs.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this 16th day of November, 1883.

[L. S.] C. A. HEDRICK, *Clerk*,
By F. H. G. TAYLOR, *D'y Clk.*

Received the within writ of sale on Friday, the 16th day of November, A. D. 1883, and on the 15th day of December of same year, I advertised the said property for sale in the East Carroll Democrat, a newspaper published weekly in the parish of East Carroll, La., to be sold at the door of the court-house in the town of Providence, in said parish & State, on the 19th day of January, A. D. 1884, for cash, according to inventory; and on the said day of sale, at the place aforesaid, between the hours prescribed by law, and after reading the advertisement and the recorder's certificate of mortgage, I offered the same for sale at public auction in an audible voice; whereupon Isadore Newman became the purchaser thereof for the price and sum as follows, to wit:

105	For the Manning tract,	862.06	acres,	$1.05	per acre,	$905 16
	For the Cable "	177	"	1.00	"	177 00
For the ½ of Lick Skillet "		261.52	"	1.25	"	326 90
" " Nash "		268.68	"	1.00	"	268 68
		1,569.26				$1,677 74

Which amount I have received in cash—say, $1,677.74—and have credited the same upon this writ, less the following costs:

Writ of sale, 2.00; printer, 21.00	$23 00
Mortgage certificate, 1.50; commissions, 18.38	19 88
Sheriff for deed, 2.00; recorder for deed, 2.00	4 00
Clerk for writ, 1.00; for deed, 2.00	3 00
	$49 88

Say sixteen hundred and twenty-seven $\frac{56}{100}$ dollars. I now return this writ in accordance with above facts.

M. S. POWELL, *Sheriff.*
G. W. FOSTER, *D. S.*

Returned and filed Feb. 6th, 1884.
F. H. G. TAYLOR, *D'y Clk.*

Curator Prays for Homologation of Final Ac.

To the hon. the judge of the eighth dist. court in & for the parish of East Carroll:

The petition of Ben E. Hall, adm'r of the succession of Wm. D. King, with respect shows:

That he presents herewith his final account of the administration of said succession and tableau of debts allowed and paid by him, marked Exhibit "A"; and also the vouchers for each item, from 1 to 32, inclusive, said account and tableau and vouchers being made part hereof.

106 That said account and tableau made part hereof show that the petitioner has received, on account of such succession, $3,185.41, and that he has actually paid out to *bona fide* creditors of the same $3,856.84, being $671.43 in excess of receipts by him, in which sum said succession is now justly indebted to him. Petitioner shows that he has sold property and paid all *bona fide* claims against said succession of which he has any knowledge, and that, having complied with the requirements of law and discharged his duties as administrator, he is entitled to have his final account (presented herewith) approved & homologated and made the judgment of this court, to have his bond as administrator canceled, and to be relieved and discharged from the further administration of said succession.

Wherefore petitioner prays that your honor order this his final account and tableau to be filed and the notice thereof published according to law; and, after legal delays, that the same be approved

and homologated, and that each item thereof be made the judgment of the court, and that petitioner recover of said succession the sum of six hundred and seventy-one $\frac{43}{100}$ dollars, the amount paid out by petitioner on account of said succession in excess of cash received by him, together with five per cent. per annum interest thereon from the date of the judgment of homologation;
107 that petitioner's bond be canceled and he be discharged from further duties as adm'r. Petitioner prays for all necessary orders and decrees, for costs, and for general relief.

W. G. WYLY, *Attorney.*

Notice of Final Ac.

The foregoing petition and final account — considered, it is ordered that notice of the filing of same be made according to law, and that if no opposition be made thereto within legal delays the same will be homologated as prayed for.

Done & signed at chambers on this the 21st day of April, 1884.

E. J. DELONY,
Judge 8th Judicial Dist.

I hereby accept service of the foregoing petition, final account, and vouchers presented by Ben. E. Hall, adm'r., praying for the homologation thereof and for his discharge this the 21st day of April, 1884.

CHAS. M. PILCHER,
Att'y for Absent Heirs.

And endorsed on the reverse of the above and foregoing petition are the following words and figures, to wit:

"Succession of W. D. King; petition of Ben. E. Hall, adm'r, for homologation of final account. Filed April 25th, 1884. F. H. G. Taylor, deputy clerk."

108 *Final Account.*

Jan'y 19. To proceeds of sale of lands as per return of writ:

1884.

Undivided half Manning place	*$905 16
Cable place	177 00
Lick Skillet	326 90
Nash	268 68
	$1,677 74
Balance due Ben. E. Hall, curator	671 43

*For previous ac. see p. 80 & 94.

CREDITS.

1884.	P'd Lake Providence Herald for publishing notice of provisional ac., voucher 29	$3 00
Nov. 30.	Montgomery & Delony, att'ys' fees, with interest, voucher 30	1,425 00
Ap'l 19.	P'd W. G. Wyly, att'ys' fees, voucher 31	150 00
	Sh'ff's costs, selling property, &c., voucher 32	49 88
	Am't retained to cover costs of homologation, final ac.	30 00
	Commissions on property administered, @ 2½	79 64

Filed April 25th, 1884.

F. H. G. TAYLOR,
Deputy Clerk.

Voucher No. 29.

Notice is hereby given that Ben. E. Hall, adm'r, has this day filed in the clerk's office a provisional account of his administration of the estate of Wm. D. King, dec'd, and if no opposition be made thereto within the legal delays required by law the same will be homologated.

F. H. G. TAYLOR, *Deputy Clk.*

LAKE PROVIDENCE, LA., *Nov. 30th*, 1881.

Mr. Ben. E. Hall, adm'r, to Lake Providence Herald, Dr.

June 18. To publishing notice of final account of W. D. King, as per voucher attached.

Rec'd payment,

F. BARLOW.

109 Voucher No. 30.

Received of Ben. E. Hall, curator of the succession of W. D. King, fourteen hundred & twenty-five dollars, the amount of the claim of Field F. Montgomery and E. J. Delony, in suit No. 115, styled Field F. Montgomery and E. J. Delony *vs.* Ben. E. Hall, curator, said claim being for proffessional service, as will appear by reference to said suit, which claim is acknowledged as a just & valid claim against the succession of W. D. King, and said suit is to be discontinued, the above payment being in full satisfaction of said claim.

Dated M'ch 14th, 1884.

E. J. DELONY.
F. F. MONTGOMERY.

Voucher No. 31.

$150.00.

Received of Ben. E. Hall, adm'r of the succession of W. D. King, one hundred and fifty dollars for attorneys' fees in conducting and closing the succession of W. D. King, this the 19th of April, 1884.

W. G. WYLY, *Att'y.*

Voucher No. 32.

Succession of W. D. King to M. S. Powell, sheriff, Dr.

1883.		
Nov. 17.	Writ of sale, 2.00; printers, 21.00	$23 00
	Recorder for deed, 2.00; mortgage certificate, 1.50	3 50
	Clerk for writ, 1.00; for deed, 2.00	3 00
	Sheriff for deed, 2.00; commissions, 18.38	20 38
		$49 88

Paid. M. S. POWELL, *Sheriff.*

110 $10,000.00.

MOUNDS, CARROLL PAR., LA., *June 28th*, 1877.

On or before the first day of January next we or either of us promise to pay to our own order ten thousand dollars, value received, with 8 % interest from maturity until paid.

W. D. KING.
MRS. BEN. E. HALL.

Attest: W. C. McRAE.

I authorize my wife to sign and endorse the above note.
BEN. E. HALL.

[Written across the face in red ink:] "*Ne varietur.*" Providence, June 28, '77. J. W. Dunn, by recorder. Cancelled this — day of June, 1884. F. H. G. Taylor, by recorder. E. Carroll Par., La.

The above note is endorsed as follows: W. D. King, Mrs. B. E. Hall.

Eunice King et al. Sells to Mrs. E. E. Hall.

STATE OF LOUISIANA, *Parish and City of New Orleans:*

This deed copied from deed-book "P," page 685.

Be it known that on this 19th day of Feb'y, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States of America the one hundred and second, before me, Andrew Hero, Jr., a notary public in and for the par. and city of New Orleans, State of Louisiana, duly commissioned and qualified, and in presence of the witnesses hereinafter named and undersigned, personally came and appeared David J. Dawes, of this city, herein acting as the duly-authorized agent and att'y-in-fact of Eunice H. King and Mrs. Elizabeth J. L. King, the
111 wife, of lawful age, of James M. Norman, as well as for the said James M. Norman, under and by virtue of the annexed power of attorney, executed by them in his favor under date of the 18th day of Feb'y inst., which said Dawes declared in his said capacity that for the consideration and on the terms and conditions herein-

after expressed, he does by these presents, for and on behalf of his said constituents, grant, bargain, sell, convey, transfer, assign, & set over with all legal warranties unto Mrs. Elenora E. Buckner, the wife, of lawful age, of Benjamin Emerson Hall, of the parsh of East Carroll, in this State, here present, and with the assistance and authorization of her said husband, who is here also present, accepting and purchasing for herself, her heirs and assigns, with her own separate and paraphernal funds, derived as she declared from her revenues of her half interest — the hereinafter-described estate, and acknowledging the delivery and possession — all *in* singular an undivided half part, share, & interest, and all the estates, right, title, interest, share, proper-y, claim, and demand of every kind and nature whatsoever of the aforesaid Eunice H. King, Elizabeth J. L. Norman, and James M. Norman, or of either of them, in and to the following-described real, personal, and mixed property and estate, viz:

First. All that certain tract or parcel of land, together with
112 all the buildings and improvements thereon, stock, mules, cattle, oxen, aratory implements, and articles of personal property thereto attached or used in its cultivation, cotton-gin, machinery, and all things thereto belonging, as well as all rights, ways, privileges, and appertenances thereunto appertaining, situate, lying, and being in the parish of East Carroll, in the State of Louisiana, which is a subdivision of the late parish of Carroll, known and designated as the "Mounds plantation," containing, more or less, seventeen hundred and forty-two $\frac{15}{100}$ acres, and composed of parts of sections twenty-five & twenty-six, all of sec. No. thirty-six, part of sec. No. thirty-five, the southeast quarter of sec. No. twenty-seven, east half of sec. No. twenty-eight, and the east half of northwest quarter of sec. No. twenty-eight; also all of sec. No. thirty-eight, all in township No. twenty north, range No. twelve east, which said "Mounds plantation" is bounded on the north by lands belonging now or formerly to Mrs. E. W. Constant, known as the "Neponset place;" on the south, as well as the west, by lands now or formerly belonging to the estate of Morgan & Keene, and on the east by lands now or formerly belonging to A. Keene Richards, known as the Transylvania place; and

Second. The stock in trade, goods, chattels, merchandise,
113 bills, bonds, notes, book accounts, claims, demands, cases in action, judgments, evidences of debt, and property of every name and nature whatsoever of the store conducted and carried on in the name of the said W. D. King on the "Mounds plantation" aforesaid, an exact and detailed inventory of which said stock in trade, book accounts, cases in action *this* on file and — record in the parish court in and for the parish of East Carroll, in the matter of the succession of Wm. D. King, as also of the personal property attached to the aforesaid "Mounds plantation," to which reference — hereby made for a more accurate description:

To have and to hold the said property and appertenances unto the said purchaser, her heirs and assigns, for ever; and the said Dawes hereby binds his constituents and their heirs forever to war-

rant & defend the property and appertenances herein conveyed against all legal claims and demands whatever; and the said vendors moreover transfer, under the said purchaser, all the rights and actions of warranty to which they are entitled against all the former proprietors of the property herein conveyed, subrogating said purchaser to the said rights and actions to be by her enjoyed and exercised in the same manner as they might have been by the said vendors.

114 This sale is made and accepted pursuant to the terms & conditions of the annexed agreement entered into between the aforesaid vendors and said purchaser, under date of Feb'y 11th, 1878, for [and] in consideration of the price & sum of five thousand dollars, with interest, as hereinafter expressed, and in settlement and as evidence of which said price said purchaser has furnished two certain prom*m*is-ory notes, both drawn by her, to the order of and endorsed by herself, countersigned by her said husband, dated at New Orleans on the day and date, bearing interest at the rate of 8% per annum from and after maturity—if not then paid, until final payment—and made payable as follows, viz: One thereof for the sum of two thousand dollars on the 1st day of Jan'y, eighteen hundred and eighty, and the other thereof for the sum of three thousand dollars on the 1st day of July, A. D. eighteen hundred and eighty-one, which said notes are domiciliated at the Canal Bank, in this city; and after having been paraphed by me, said notary, for identification herewith, were delivered unto said agent, Dawes, who, in his said capac-ty, and for and on behalf of his said constituents, hereby acknowledges the receipt.

And in order to secure the punctual payment of the said prom*m*is-ory notes at maturity, as well as for all interest to accrue
115 thereon, and in order, furthermore, to secure the payment and reimbursement of any and all lawyer's fees that may be expended or incurred in the event of suit being instituted to enforce the payment of said notes, or either of them, in principal or interest, or any part thereof, which lawyer's fees, however, are hereby fixed at 5% on the amounts in suit, and the said purchaser consents and agrees to pay the same, the said purchaser hereby specially mortgages — effects and hypothecates the herein described and conveyed property unto and in favor of the said vendors, as well as of any and all future owner or owners of the said notes, or either of them, promising and binding herself and her heirs not to *be* alienate*d*, deteriorate, nor encumber the said property to the prejudice of this mortgage, nor of the special lien and vendors' privilege, which the said vendors hereby retain on said property until the full & final payment of said notes.

And said Mrs. Elenora E. Hall, moreover, assumes and binds herself to pay and discharge all the outstanding indebtedness of the succession or estate of said deceased Wm. D. King, as also all the taxes due on said property.

And here the said parties declared that they dispense with
116 the production of a certificate from the recorder of mortgages of & for said parish of East Carroll for annexation

hereto as is otherwise required by law to show what mortgages, if any, or other encumbrances exist against the herein-described property and appurtenances in the names of said deceased W. D. King and of the present vendors.

Thus done and passed in my office, in New Orleans aforesaid, in the presence of Paul A. Conand and Chas. M. Hero, witnesses, both of this city, who hereinto sign their names with the parties & me, the said notary, on the day and date aforesaid.

(Original signed) D. J. DAWES.
ELENORA E. HALL.
BEN. E. HALL.
P. A. CONARD.
C. M. HERO.
ANDREW HERO, JR.,
Not. Pub.

A true copy of the original act on file and of record in my office. New Orleans, 23rd Feb'y, 1878.

ANDREW HERO,
Notary Public.

EXHIBIT I.

Lands Reserved by King's Heirs.

Lands reversed by heirs of W. D. King: ½ of S. ½ of sec. 5, sec. 18; lots 1, 2, 3, 4, 5, 6, and 12 of sec. 19, and that portion of land commencing at the corner of Swan Lake between sec-. 7 & 18; thence north to Joe's bayou; thence along Joe's bayou to the range line between — 11 & 12; thence south to a stake at the S. W. corner
117 of sec. 7, all in township 20, range 12 east; also S. ½ of S. ½ of sec. 12 and E. ½ of sec. 24, T. 20, R. 11 E., known as Manning place, and containing 1,724.32 acres, more or less.

All the following-described property, to wit: N. E. — of N. W. ¼, west of Joe's bayou, in sec. 35, 14 acres; and S. E. ¼ of sec. 35, 163 acres, in T. 20, R. 11, known as "Cable tract." The undivided ½ of the following tract of land, to wit: N. ½ of sec. 6, T. 20, R. 12, 331.20 acres; also 119.84 acres of the north part of sec. 5, to be divided in a parallel line running east and west so as to make the total of 523.04 acres, known as the "Lick Skillet place," T. 20, R. 12. The following-described property, known as the "Nash tract:" W. ½ of N. E. ¼ and 24.50 acres in south portion of S. W. ¼ of sec. 25 that lies east of Joe's bayou, and numbered on plat as No. 5, in T. 20, R. 11, "186.68 acres;" also S. ½ of N. W. ¼ of sec. 25, containing 186.12 acres; also S. ½ of S. W. ¼ of sec. 24, T. 20, R. 11, 82 acres, containing in the aggregate 268.68 acres, more or less, T. 20, R. 11.

Proceedings in suit of Montgomery & Delony *vs.* Ben. E. Hall *et als.:*

Petition.

To the hon. the judge of the eighth judicial — of the State of Louisiana, holding sessions of court in and for the parish of East Carroll:

118 The petition of Field F. Montgomery and Edward J. Delony, both residents of said parish, with respect represents that they are, in connection with John A. Buckner, also of said parish, securities upon the bond of Ben. E. Hall, a resident of same parish, as curator of the succession of Wm. D. King, dec'd, and they are also, as members of the late law firm of Montgomery & Delony, creditors of said succession for legal services rendered the same in an amount over one thousand dollars, and they are now "sueing" said Hall, curator, in your hon. court upon said claim, and trying to force the payment of the said claim by said Hall in his said capacity. They show further that said succession, at the date of the death of said King, and when it was taken charge of by said Hall as curator, was entirely solvent, and the personal and real property belonging thereto, as shown by the inventory made under the direction of said Hall, amounted in value to over twenty thousand dollars; that there belonged to it at that time, and now forms a part of the property of said succession, an undivided half of that plantation situated in your said parish, known as the Mounds place, bounded by Stamboul, Transylvania, Sauve Terre, and Nepinsett plantations and the Teusas swamps, and more particularly described by numbers as parts of sections 25 & 26, all of sec. 28, half of sec. 21,

119 and S. E. ¼ of sec. 27, all in township 20, range 12 east, the whole of said place containing some two thousand acres of land, more or less, and the said undivided half of same was appraised at said time to be worth the sum of nine thousand four hundred and twenty-five dollars, and is fully worth that sum at this time; that the other undivided half of said plantation was owned by the late Mrs. Leonora Buckner, wife of said Ben. E. Hall and sister of said John A. Buckner, and is now, as your petitioners are informed, the property of said Ben. E. Hall as legatee of his wife, or was so up to the 21st day of May, 1881.

That said undivided half of said Mounds place, belonging to said succession of King, has never been legally disposed of, and said succession has never been settled and closed up, but is still being administered by said Hall as curator, who has received all the rents and revenues from the same since the death of said Wm. D. King, in Oct., A. D. 1877, u-less it be for the last two years, during which time petitioners believe and charge they have been received by the said John A. Buckner; that said rents of said property have been worth fully four thousand dollars per annum, and have been amply sufficient to pay all the debts of the said succession of King, and particularly the taxes assessed to and owing by it.

120 That said John A. Buckner is the brother-in-law of said Ben. E. Hall, as well as security upon his curator's bonds and

lives upon an adjoining plantation to said Mounds place, upon which said Hall resides, and has assisted and advised said Hall in the management of said property, and knew full well that said property yielded a revenue fully sufficient to easily pay the taxes upon it, and that there was sufficient personal property upon it to pay the same and worth in value largely in excess of any legal tax which might be levied against it, and cost an hundred-fold more. The said Buckner also knew that an undivided half of said Mounds plantation belonged to and was the property of the succession of Wm. D. King, dec'd, and that said succession had not been closed.

That, notwithstanding all these facts, the said Ben. E. Hall did cause or permit all of said Mounds place to be assessed in his name and allowed M. S. Powell, sheriff and tax collector of the parish of East Carroll, to advertise and on the 21st day of May, 1881, sell all of said place as his property (though half of it belonged to King's succession) and to pay his taxes, which he had failed to pay (as your petitioners believe and charge) intentionally and without any necessity therefor, and at said sale the said John A. Buckner pur-
121 chased the same for the sum of four hundred and twenty-four $\frac{39}{100}$ dollars, being for the taxes and penalties due by said Ben. E. Hall, State and parish, for the year 1880, and said property was conveyed to him by said tax collector by tax deed duly recorded in the national records of the parish of East Carroll, in the recorder's office of said parish.

Now your petitioners show that the sale of the said undivided half of said Mounds plantation belonging to the said succession of King to the said Buckner was and is illegal, null, and void for the following reasons, to wit:

First. Because there was no legal assessment of said property in said year- 1880 or 1879, the same not being nor ever having been the property of said Ben. E. Hall.

Second. Because there was no legal seizure of said property by the said tax collector, nor was it sold upon the day filed and printed out by law upon which tax sales should be made; and—

Third. Because the sale to and purchase by John A. Buckner was in bad faith, collusive, and fraudulent, and the result of a conspiracy between him and his said brother-in-law, Ben. E. Hall (the tax collector being an innocent instrument used and interposed by them to and in executing their plans), for the purpose of defrauding
122 the creditors of the succession of King and securing certain claims held by said Buckner against said Hall or his late wife, said Buckner's sister, due to him or for which he was responsible.

That by reason of said illegal and fraudulent purchase of said Buckner he is not entitled to be repaid any portion of the price paid for said undivided half of said Mounds plantation belonging to the said succession of King, and having been through said illegal conveyance of said property to him by the said tax collector put in possession thereof, he has received and enjoyed the revenues of the same for the year 1881 and leased it for this year, 1882, as petitioners are informed.

That the rents of said property for said two years are worth the

full sum of eight thousand dollars, being four thousand dollars per annum, and which amount he justly owes, and should be condemned to pay to the said succession of King, with legal interest from — due.

Petitioners show further that though said sale and conveyance to Buckner of said property is illegal and a nullity they fear and have reason to believe that he will apply to said tax collector and Hon. Allen Jumel, auditor of public accounts, for a confirmation
123 of the same, and that he will make the same to the great injury, damage, and annoyance of the said succession of King & your petitioner unless restrained and prohibited from doing so by writ of injunction from your hon. court.

Petitioners furthers how that by said illegal, wrongful, and fraudulent acts of the said Ben. E. Hall, as alleged herein, and which they expect to show on trial hereof, he has forfeited the high trust imposed upon him by your hon. court, and shown himself unworthy thereof, and he should be discharged from the curatorship of said succession of W. D. King and some worthy person placed in charge of it.

Wherefore, the premises being considered, your petitioners pray that the said Ben. E. Hall and the said John A. Buckner and the said M. S. Powell, tax collector, and the said Allen Jumel, State auditor, residing in the city of Baton Rouge, all decided to appear and answer hereto.

That a writ of injunction issue from your hon. court restraining [and] enjoining the said John A. Buckner from applying for, and Powell, tax collector, and Jumel, auditor, from granting, a confirmation of the title made to him, said Buckner, by said tax collector under the sale made on the 21st day of May, A. D. 1881, of the said un-
124 divided half interest of said Mounds plantation belonging to said succession of W. D. King.

That upon due trial hereof the said sale be declared null & void and the said property be returned to said succession of King as belonging thereto and subject to the debts against same, and the curator of said succession be placed in possession thereof, and that the injunction granted herein be perpetuated; that said Buckner be decreed to pay to the said succession the said sum of eight thousand dollars for rents of said property for the years 1881 & 1882, and that no part of the purchase price paid for said property at said illegal sale be repaid to him by said succession, but if so, then that the amount allowed be dedicated from the said amount due for rents.

And petitioners pray that the said Ben. E. Hall be discharged from the further charge, control, and administration of said succession of Wm. D. King and some other person be placed in charge thereof, and for costs and general relief.

F. F. MONTGOMERY, *For Self.*
E. J. DELONY, *Pro. Per.*

Plaintiffs' Swear to Correctness of Their Petition.

Field F. Montgomery, being duly sworn, says the facts and allegations in the foregoing petition are true & correct as therein set forth, and that E. J. Delony, district judge, being recused,
125 is unable to give the order herein, and that his honor J. Harvey Brigham is absent from this parish.

F. F. MONTGOMERY.

Sworn to and subscribed before me this 10th day of May, A. D. 1882.

GEO. J. HOOK,
D'y Clerk.

E. J. Delony, Judge, Recuses Himself and Appoints J. H. Brigham to Try Case.

In this case the undersigned, being the judge of the 8th judicial dist., and being one of the plaintiff's herein and personally interested, is recused, and hereby appoints his honor J. Harvey Brigham, judge of sixth judicial dist., to try the same.

Done and signed in chambers this 9th day of May, A. D. 1882.

E. J. DELONY,
Judge 8th Judicial Dist.

Clerk of Court Grants Order of Injunction.

The foregoing petition and affidavit being considered, it is ordered that a writ of injunction issue as prayed for upon plaintiffs' executing bond in the sum of five hundred dollars, conditioned according to law.

Done & signed this 11th day of May, 1882.

CYRUS A. HEDRICK,
Clerk 8th Dist. Court.

Sheriff Accepts Service of Petition.

I accept service of within petition, waive citation & writ of injunction, and take cognizance of said injunction.

M. S. POWELL, *Sh'ff.*

126 The above petition is endorsed as follows:

"No. 323. F. F. Montgomery and Edward J. Delony *vs.* J. A. Buckner, Ben. E. Hall, *et als.* Pet. and injunction. Filed May 20th, 1882. F. H. G. Taylor, d'y cl'k."

Injunction Bond.

STATE OF LOUISIANA, *Parish of East Carroll:*

Eighth District Court.

F. F. MONTGOMERY and E. J. DELONY
vs.
JOHN A. BUCKNER, BEN. E. HALL, *et al.* } No. 322.

Know all men by these presents that we, Field F. Montgomery & Edward J. Delony, as principal-, and John B. Donnally, as security, are held and firmly bound unto John A. Buckner, Ben. E. Hall, *et als.*, defendants in the above-styled suit, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to the said Buckner and others; for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns, firmly by these presents, this the 20th day of May, A. D. 1882.

Whereas the said Field F. Montgomery & Edward J. Delony hath this day presented for *and* an order thereon to the clerk of said court authorizing and requiring him to issue a writ of injunction;

Now the condition of the above obligation is that we, the
127 above-bound Field F. Montgomery and Edward J. Delony and John B. Donnally, will well and truly pay the said Buckner and others, clerk, or his successors in office, all such damages as may be recovered against us in case it should be decided that the injunction [was] wrongfully obtained.

F. F. MONTGOMERY.
E. J. DELONY,
By F. F. MONTGOMERY,
Att'y & Att'y-in-Fact.
J. B. DONNALLY.

And the within and foregoing injunction bond of F. F. Montgomery and E. J. Delony, filed in their suit *vs.* Ben. E. Hall, John A. Buckner, *et al.*, *is* indorsed on the back thereof by the deputy clerk the following words and figures, to wit:

Filed May 20th, 1882. F. H. G. Taylor, deputy clerk.

128 *Writ of Injunction.*

THE STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

F. F. MONTGOMERY & E. J. DELONY
vs.
J. A. BUCKNER & BEN. E. HALL, *et al.* } No. 323.

The State of Louisiana & said court to John A. Buckner, of said parish & State, Greeting:

Whereas Field F. Montgomery & Edward J. Delony have filed in the office of the clerk in and for said parish their petition, with an affidavit of facts alleged therein, praying that the said John A.

Buckner be enjoined and directed not to proceed any further in applying for a confirmation of the title made to him by M. S. Powell, tax collector, to an undivided half interest in the "Mounds plantation, under the sale made by said tax collector on the 21st day of May, A. D. 1881, and that said Powell, tax collector, and Allen Jumel, auditor, be enjoined from granting said confirmation of title in the suit of —— —— *vs.* —— ——, upon which it appears that the clerk of said court has authorized an injunction to issue, upon the said Montgomery & Delony furnishing bond with solvent security in the sum of five hundred dollars, conditioned according to law; and the said Montgomery & Delony, having given bond & security as required in said authorization, you are therefore commanded and strictly enjoined in the name of the State of Louisiana and
129 said court not to proceed any further with said application to said tax collector or said auditor for a confirmation of said title to said property until further order of said court in the premises.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this 20th day of May, 1882.

[L. S.] C. A. HEDRICK, *Clerk*,
By F. H. G. TAYLOR, *D'y Cl'k*.

And upon the back of the within and foregoing writ of injunction appears the following words and figures, being the sheriff's return, to wit:

"Received the within writ of injunction and a certified copy thereof on Saturday, May 20th, 1882, and on the same day, month, & year served said copy by handing the same to Jno. A. Buckner in person, at his residence, in the parish of East Carroll, La. M. S. Powell, sh'ff, by A. G. Belden, d'y sh'ff."

130 *Citation to J. A. Buckner.*

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

F. F. MONTGOMERY and E. J. DELONY
vs. } 323.
JNO. A. BUCKNER, BEN. E. HALL, *et al.*

The State of Louisiana and said court to John A. Buckner, residing in said parish and State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition of the said Montgomery and Delony, a duly certified copy of which accompanies this citation, or to deliver your answer to the said petition in writing in the office of the clerk of said court, held at Providence, in said parish, within ten days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this the 20th day of May, A. D. 1882.

C. A. HEDRICK, *C'lk*,
By F. H. G. TAYLOR, *D'y C'lk*.

Sheriff's Return.

Received the within citation, together with a certified copy hereof and a certified [copy] of plaintiff's petition, on Saturday, May the 20th, 1882, and on the same day, month, & year served both of said copies by handing the same to Jno. A. Buckner in person, at his residence, in the parish of East Carroll, La.

131 M. S. POWELL, *Sh'ff*,
By A. G. BELDEN, *D. S.*

Citation to B. E. Hall.

STATE OF LOUISIANA, *Parish of East Carroll:*

8th Dist. Court.

F. F. MONTGOMERY & E. J. DELONY
vs.
JNO. A. BUCKNER, BEN. E. HALL, *et al.* } 323.

The State of Louisiana and said court to Ben. E. Hall, residing in said parish & State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition of the said Montgomery & Delony in the above-styled case or to deliver your answer to said petition in writing in the office of the clerk of said court, held at Providence, in said parish, within ten days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Hon. E. J. Delony, judge of said court, & the seal of said court, this the 20th day of May, A. D. 1882.

C. A. HEDRICK, *Clerk*,
By F. H. G. TAYLOR, *D'y C'lk.*

Sheriff's Return.

Received the within citation and a copy hereof on Saturday, the 20th day of May, A. D. 1882, and on the same day, month, &
132 year served said copy by handing same to Ben. E. Hall, in person, in the parish of East Carroll, La.

M. S. POWELL, *Sh'ff*,
By A. G. BELDEN, *D'y Sh'ff.*

STATE OF LOUISIANA, *Parish of East Carroll:*

8th Dist. Court.

F. F. MONTGOMERY [and] E. J. DELONY
vs.
JNO. A. BUCKNER, BEN. E. HALL, *et al.* } No. 323.

The State of Louisiana and said court to Ben. E. Hall, residing in said parish and State, Greeting:

You are hereby summoned either to comply with the demand contained in the petition [of] said Montgomery and Delony, a duly

certified copy of which accompanies this citation, or to deliver your answer to the said petition, in writing, in the office of the clerk of said court, held at Providence, in said parish, within ten days after service hereof, adding one day for every ten miles your residence may be distant from the court-house of said parish, and according to law.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this the 27th day of May, A. D. 1882.

C. A. HEDRICK, *Clerk*,
[SEAL.] By F. H. G. TAYLOR, *D'y Clk.*

Delivered May 27th, 1882.

F. H. G. TAYLOR, *D'y Clk.*

133 [Endorsed:] Eighth district court. F. F. Montgomery [and] E. J. Delony *vs.* Jno. A. Buckner, Ben. E. Hall, *et al.* No. 323. Citation.

Received the within citation, together with a certified copy hereof and a certified copy of plaintiffs' petition, on Saturday, May the 27th, A. D. 1882, and on the 6th day of June, of the same year, I served both of said copies by handing the same to Toney Squires, a person apparently above the age of 14 years, who was at and residing at the residence of Ben. E. Hall on the "Mounds plantation," in the parish of East Carroll, La., he being absent from his domicile at the time of said service.

M. S. POWELL, *Sheriff*,
By A. G. BELDEN, *D. S.*

Extra-t from Minutes of Dec. 6th, 1880.

MONDAY, *Dec. 6th*, 1880.

Court met pursuant to adjournment.

* * * * * * *

134 F. F. MONTGOMERY and E. J. DELONY
vs.
BEN. E. HALL *et als.* } No. 123.

The judge, being personally interested in this case, recused himself, and appointed Hon. J. Harvey Brigham, judge of sixth dist. court, judge, to try the same.

Agreement that Case Shall Be Decided at Chambers.

Eighth Dist. Court, Par. of East Carroll.

F. F. MONTGOMERY and E. J. DELONY
vs.
JOHN A. BUCKNER [and] BEN. E. HALL. } No. 323.

It is agreed by the plaintiffs and the defendants in the above-styled suit that this case shall be heard and decided at chambers, and the decree signed at chambers; also, that said decree shall have the same force and effect as if rendered and signed in open court,

Hon. E. J. Delony, the presiding judge of this court, being one of the plaintiffs, was recused, and he appointed Hon. J. Harvey Brigham, judge of the sixth judicial district, to try this case, to whom it is now referred for decision. And the parties hereto further consent that the injunction herein be dissolved without damages, and this suit dismissed.

This the 28th of April, 1884.

W. G. WYLY,
Att'y for Def'ts.
F. F. MONTGOMERY.
E. J. DELONY.

135 *Judgment.*

Eighth District Court, Parish of East Carroll.

F. F. MONTGOMERY and E. J. DELONY
vs.
JOHN A. BUCKNER, BEN. E. HALL, *et al.* } No. 323.

By reason of the law and the evidence being in favor of the defendants and against the plaintiffs and by further reason of the consent of all parties, it is ordered that the injunction herein be dissolved without damages and this suit be dismissed, the parties hereto having consented that this case should be heard and disposed of at chambers. (27 An., 403.) The district judge being recused, and having appointed me to try this case, I have done so and rendered this decree. Read and signed at chambers on this the 6th day of May, 1884.

J. HARVEY BRIGHAM,
Judge 6th District, Recused Judge 8th Dist.

Extract from Minutes of July 8th, 1884

FRIDAY, *July 8th,* 1884.

Court met pursuant to adjournment.

* * * * * * *

F. F. MONTGOMERY and E. J. DELONY
vs.
JOHN A. BUCKNER, BEN. E. HALL, *et al.* } No. 323.

Discontinued.

136 Proceedings had in the suit of John A. Buckner *vs.* Ben. E Hall, ex'r (made part of pl'ff's' petition), and marked Exhibit "D."

Petition to Foreclose Mortgage.

To the hon. the judge of the eighth district court in and for the parish of East Carroll:

The petition of John A. Buckner, residing in said parish & State, with respect shows—

That the succession of Mrs. Elenora E. Hall, legally represented by Benjamin E. Hall, testamentary executor in this parish and

State, is justly owing him the sum of five thousand dollars, with 8% interest on two thousand dollars thereof from 1st January, 1880, and two dollars $\frac{50}{100}$ *cents*, costs of protest, by reason of the two mortgage notes hereto annexed, marked "A" & "B," and made part hereof; said act of protest is also made part hereof, marked "C."

That said mortgage note marked "B" will mature on 1st January, 1881, and bears 8% interest from maturity. Petitioner shows that said notes are secured by vendor's privilege and act of special mortgage on the Mounds plantation and accessories (movables thereon); an accurate description thereof will appear by the authentic copy of said act of mortgage hereto annexed, marked "D," and made part hereof.

137 That the act [of] mortgage stipulates 5 per cent. att'ys fees.

Petitioner shows that said notes were acquired from the payees thereof before due & for value in due course of trade; that note marked "A" was not paid at maturity, although amicably demanded, as will appear by said protest marked "C."

Wherefore petitioner prays, the said notes, protest, & act of mortgage considered, that an order of seizure & sale may be issued by this hon. court; that said vendor's privilege and act of mortgage may be rendered executory on all the property described in said act of mortgage; that the same be specially seized and sold to pay petitioner the said amounts due and on terms of credit corresponding with the maturity of said note maturing on 1st January, 1881, with 8% interest from the respective maturity of said notes, & costs of protest and all costs, and for general relief.

W. G. WYLY,
Att'y for Pl'ffs.

Writ of Sale Ordered to Issue.

The foregoing petition, mortgage notes, protest, & act of sale & mortgage considered, it is ordered that said vendor's privilege and act of mortgage is hereby recognized and rendered executory to date from 19th Feb'y, 1878, and that all the property described in said act of mortgage be specially seized and sold to pay peti-

138 tioner two thousand dollars, with 8% interest thereon from 1st of January, 1880, and two $\frac{50}{100}$ — costs of protest, and on terms of credit to pay the note due 1st Jan'y, 1881, for the further sum of three thousand dollars, with 8% interest from 1st Jan'y, 1881, & all costs. It is further ordered that five per cent. att'ys' fees on the amount of said two notes "A" & "B" be also paid pursuant to stipulation in said act of mortgage.

Read and signed at chambers on this 20th day of November, 1880.

(Signed) E. J. DELONY,
Judge 8th Judicial Dist.

And the above and foregoing petition is endorsed in the following words & figures, to wit:

"No. 150. John A. Buckner *vs.* Ben. E. Hall, ex'r. Pet., notes, protest, & act of mortgage. Filed Nov. 20th, 1880. F. H. G. Taylor, d'y clerk.

139 A.

Note.

$2,000.00 NEW ORLEANS, LA., *Feb'y 19th*, 1878.

On first day of Jan'y, 1880, eighteen hundred and eighty, after date, I promise to pay to the order of myself the sum of two thousand dollars at the Canal Bank in this city, value received, with interest at the rate of eight per cent. per annum from and after maturity; if not then paid, until final payment.

ELENORA E. HALL.

I authorize my wife to sign & endorse this note.

BEN. E. HALL.

[Written across the face in red ink:] *Ne varietur.* New Orleans, 19th Feb., 1878. Andrew Hero, Jr., not. pub. Pay the within to J. B. Wolf & Co., agent-, New Orleans, La. Elenora E. Hall.

"B."

Note.

$3,000.00 NEW ORLEANS, LA., *February 19th*, 1878.

On first day of Jan'y, eighteen hundred and eighty-one, after date, I promise to pay to the order of myself the sum of three thousand dollars at the Canal Bank in this city, value received, with interest at the rate of eight per cent. per annum from and after maturity; if not then paid, until final payment.

ELENORA E. HALL.

I authorize my wife to sign & endorse this note.

BEN. E. HALL.

[Written across the face in red ink:] *Ne varietur.* New Orleans, 19 Feb'y, 1878. Andrew Hero, Jr., not. pub. Elenora E. Hall.

140 *Copy of Protest.*

STATE OF LOUISIANA, *Parish of Orleans:*

By this public instrument of protest be it known that on this fifth day of January, in the year one thousand eight hundred and eighty, at the request of Jos. B. Wolfe & Co., of this city, holders of the original note, whereof a true copy is on the reverse hereof written, I, Andrew Hero, Jr., a notary public in and for the parish of Orleans, State of Louisiana, duly commissioned and sworn, presented said note to the paying teller and note clerk of the Canal Bank at its banking house in this city, where the said note is made payable, and demanded payment thereof, and was by them respectively answered that the said note would not be paid for want of funds from the drawer; wherefore I, the said notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the drawer or maker of said note as against all others whom it doth or may concern for all exchange, re-

exchange, damages, costs, charges, and interest suffered or to be suffered for want of payment of the said note.

Thus done and protested in the presence of Messrs. David J. Dowers and Daniel P. J. Craven, both of this city, witnesses, who have
141 signed with me, the notary.

(Original signed) D. J. DOWERS,
D. P. J. CRAVEN.
[L. S.] ANDREW HERO, JR.,
Not. Pub.

For the mortgage executed by Mrs. E. E. Hall see act of sale on page —.

Mrs. E. E. Hall Executes Mortgage.

STATE OF LOUISIANA, *Parish of East Carroll:*

Whereas I, M. S. Powell, State tax collector for the parish of East Carroll, State of Louisiana, by virtue of the power in me vested by law in accordance with act No. 77 regulating the mode of assessing and collecting taxes throughout the State, providing for the seizure and sale of the property of delinquent tax-payers, & regulating the proceedings against them and against their property, approved April the 9th, 1880, and having made the necessary publications and advertisement, to wit, in the Lake Providence Herald, a newspaper published weekly in the aforesaid parish and State, said publication having been made on February the 25th to April the 16th, 1881, and having complied with all the requirements and formalities specified in said act aforesaid, did expose at public auction on the
21st day of May, A. D. 1881, at the door of the court-house
142 in the parish of East Carroll, La., the following-described property, to wit: Two thousand three hundred (2,300) acres of land, known as the "Mounds plantation," in police jury ward 2, bounded by "Atherton," "Transylvania," & Teusas swamps, the same having been seized for the payment of taxes due by Ben. E. Hall, as owner thereof, according to the tableau and assessments rolls for the year one thousand eight hundred and eighty (1880), at which sale John A. Buckner, residing in the aforesaid parish & State, being the last & highest bidder, the said property was adjudicated to him for the price & sum of $420.39, which I hereby acknowledge to have received as follows:

The Taxes Due the State & Parish for the Year 1880.

Tax	$381 39
Interest (5 mo., 8%)	12 75
Publishing delinquent, 1.00; notice, .25	1 25
Seizure, 2.00; advertising sale, 3.00	5 00
Collector's fees, 4% on 381.39	15 25
Sheriff's deed, 2.00; recorder's fees, 2.00	4 00
Notary public	75
Making the sum total of four hundred & twenty dollars and thirty-nine cents	$420 39

It being, however, well understood and hereby expressly stipulated that in conformity with law the owner of said property, or any creditor or agent of the owner, may redeem the same at any time within one year after the filing of this deed with the recorder
143 by paying the purchaser, his heirs or assigns, the above sum of four hundred and twenty dollars and thirty-nine cents ($420.39), paid in cash, and 20% additional, and all costs, and in accordance with the provisions and under all the conditions named in said act No. 77 of 1880.

In witness whereof I have hereunto subscribed my name, at the town of Lake Providence, parish of East Carroll, this 7th day of June, one thousand eight hundred and eighty-one, in presence of F. S. Garner and A. G. Belden.

M. S. POWELL,
Sh'ff & ex Office Tax Collector.

Attest:
F. S. GARNER.
A. G. BELDEN.

Accepted.

JNO. A. BUCKNER.

STATE OF LOUISIANA, *Parish of East Carroll:*

Before me, Sanders D. Oliver, a notary public in & for said parish, duly commissioned and qualified, personally appeared this day the parties to the foregoing deed, M. S. Powell, sheriff & *ex officio* tax collector, and John A. Buckner, purchaser, who declared that they signed the same for the true intents & purposes therein set forth; and appeared F. S. Garner and A. G. Belden, who declared that they signed said deed as witnesses at the time & in the presence
144 of said parties, and that they saw them sign the same.

In faith whereof I hereunto sign my official signature & affix my seal of office, in said parish & State, on this the 7th day of June, A. D. 1881.

[L. S.]

S. D. OLIVER,
Notary Public.

145 Copy of proceedings had in the suit of T. L. Aivey & Co., *vs.* Ben. E. Hall, testamentary ex. of E. E. Hall, and which is made part of plaintiffs' petition, and which proceedings are in the words and figures following, to wit:

Petition.

To the hon. the judge of the thirteenth district court in and for the parish of East Carroll, State of Louisiana:

The petition of T. L. Aivey and Company, composed of Thomas L. Aivey and Alexander T. Janin, domiciled and doing a commercial business in the city of New Orleans, State of Louisiana, under said name and style, with respect shows—

That Ben. E. Hall, testamentary executor of his deceased wife, Elenora E. Hall, residing in said parish of East Carroll, and admin-

istering said succession, is justly indebted unto them in the capacity aforesaid, in the full sum of eleven thousand seven hundred and thirty-seven $\frac{48}{100}$ dollars, with 8% per annum interest on $5,836.62 thereof from the first day of Feb'y, 1879, and like interest on $5,900.86 thereof from the first day of March, 1879, as will more fully appear by the two mortgage notes of the said Mrs. Elenora E. Hall for said amounts, respectively, both dated the 21st of February, 1878, annexed hereto and marked A & B and made part hereof.

146 In order to secure the full and punctual payment of the said two notes the said Mrs. Elenora E. Hall, on the 21st day of Feb'y, 1878, did specially mortgage unto and in favor of petitioners all and singular that certain tract of land known as the "Mounds plantation," situated in said parish and State, and composed of sections 25 & 26, all of sec. 36, part of sec. 35, the south-east quarter of sec. 27, the east half sec. 28, and the east half of the northwest quarter of sec. twenty-eight (28), all in township 20 north, of range 12 east; also all of sec. 38, in same township & range, which said "Mounds plantation" is bounded above on north by the lands belonging to Mrs. E. W. Constant, known as the Neponset place; on the south as well as on the west by lands belonging to the estate of Morgan & Keene, and on the east by lands belonging to A. Keene Richards, known as the Transylvania place, which said plantation contains about twenty-three hundred (2,300) acres. The said Mrs. E. E. Hall did also mortgage as part of said plantation all the machinery, mills, engines, farming implements, live stock, horses, mules, and other personal effects thereon and thereto attached, among which there are thirteen (13) horses, mares, & colts, 24 mules, 18 cows & calves, 7 oxen, 5 old wagons, 18 plows, 4 sweeps, a lot of plow gear, and other

147 personal property, as will appear by the inventory of said succession, presented herewith for reference, same being on file among the mortuary papers of said succession. Petitioners further show that in said mortgage the said Mrs. E. E. Hall expressly stipulated to pay five per cent. attorneys' fees on the amount of said notes, in case it became necessary to resort to legal remedies; she also stipulated & expressly agreed to confess judgment, and consented that all the property mortgaged might be seized and sold under executory process," without appraisement, to the highest bidder, payable — cash, said mortgage- *or* waiving and renouncing the benefit of appraisement;" all of which will more fully appear by a duly authenticated copy of said act of mortgage, marked "C" and made part hereof.

Petitioners show that said notes are passed due and remain unpaid, notwithstanding amicable demand.

Wherefore petitioners pray upon presentation herewith of said mortgage notes, the act of mortgage, & also the mortuary papers and inventory of said succession also considered, that an order of seizure and sale issue against all of said property, hypothecated as aforesaid, and that the same be ordered to be sold without the

148 benefit of appraisement & according to law, and that plaintiffs be paid by privilege out of the proceeds of the sale the

said eleven thousand seven hundred and thirty-seven $\frac{48}{100}$ dollars, with 8% interest on $5,836.62 thereof from the 1st of Feb'y, 1879, and like interest on $5,900.86 thereof from the 1st of M'ch, 1879, & also five per cent. att'ys' fees on the total indebtedness; also two $\frac{50}{100}$ dollars, special costs for copy of the act of mortgage, and all costs, and for general relief.

W. G. WYLY, *Att'y.*

STATE OF LOUISIANA, *Parish of East Carroll:*

Personally appeared before the undersigned authority W. G. Wyly, who, being duly sworn, deposes & says that the Hon. Wade H. Hough, judge of this hon. court, is absent from the parish of East Carroll at this time, and that he desires to sue out an order of seizure and sale in behalf of this said client.

W. G. WYLY.

Sworn & subscribed before me this 30th day of M'ch, A. D. 1880.

M. DU BOSE,
Parish Judge.

149 Thirteenth District Court, Parish of East Carroll.

The foregoing petition, act of mortgage, mortgage notes, the inventory, and other mortuary papers of the succession of Mrs. Elenora E. Hall — considered, it is ordered that an order of seizure and sale be issued against all the property described in said act of mortgage and set out in the inventory as the "Mound's plantation," together with the movable property thereon & thereto attached; that said mortgage be recognized and rendered executory, to date from the 21st day of Feb'y, 1878, and that all of said property be specially seized and sold without the benefit of appraisement, and the proceeds be applied to the payment of the said eleven thousand seven hundred and thirty-seven $\frac{48}{100}$ dollars owing to petitioner, together with 8% interest on $5,836.62 thereof from 1st Feb'y, 1879, and like interest on $5,900.86 thereof from M'ch 1st, 1879; and also the further sum of 5% att'ys' fees on the total indebtedness; also two $\frac{50}{100}$ dollars, special costs of copy of the act of mortgage, and that plaintiffs be paid by privilege out of the proceeds of said sale said amounts.

The district judge being absent from the parish — read
150 and signed at chambers this the 30th day of March, A. D. 1880.

M. DU BOSE,
Parish Judge.

And endorsed across the back of the above and foregoing petition are the following words and figures, to wit:

"13th district court. No. 7189. T. L. Aivey & Co. *vs.* Ben E. Hall, testamentary ex. of Elenora E. Hall, dec'd. Order of seizure & sale, etc. Filed M'ch 30th, 1880. T. I. Galbreth, d'y clerk."

151 "A."

Note.

$5,836.62. NEW ORLEANS, LA., *February 21st*, 1878.

On the first of February, eighteen hundred and seventy-nine, after date, I promise to pay to the order of myself, at the Louisiana National Bank, in this city, the sum of five thousand eight hundred and thirty-six $\frac{62}{100}$ dollars, value received, with interest at the rate of 8 % per annum from and after maturity; if not then paid, until final payment.

ELENORA E. HALL.

I authorize my wife to sign and endorse this note.

BEN. E. HALL.

Endorsed: Elenora E. Hall.

[Written across the face in red ink:] "*Ne varietur.*" New Orleans, 21st Feb'y, 1878. Andrew Hero, not. pub.

"B."

Note.

$5,900.86. NEW ORLEANS, LA., *Feb'y 21st*, 1878.

On the first of March, eighteen hundred and seventy-nine, after date, I promise to pay to the order of myself, at the Louisiana National Bank, in this city, five thousand nine hundred $\frac{86}{100}$ dollars, value received, with interest at the rate of eight per cent. per annum from and after maturity; if not then paid, until final payment.

ELENORA E. HALL.

I authorize my wife to sign & endorse this note.

BEN. E. HALL.

Endorsed: Elenora E. Hall.

[Written across the face in red ink:] *Ne varietur.* New Orleans, 21st Feb'y, 1878. Andrew Hero, not. pub.

152 *Mortgage from Mrs. Hall to T. L. Airey & Co.*

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans:

Be it known that on this twenty-first of Feb'y, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States of America the one hundred and second, before me, Andrew Hero, Jr., a notary public in and for said parish of Orleans, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Mrs. Elenora E. Buckner, of full age, the wife of Benjamin E. Hall, of the parish of East Carroll, in this State, herein duly authorized and assisted by her said husband, who is here also present, and also authorized in the execution hereof by the Hon. W. H.

Hough, judge of the thirteenth judicial district court of the State of Louisiana for the parish of East Carroll, as per his annexed certificate bearing date this day and issue- under the provisions of articles 126 & 127 and 128 of the revised civil code of Louisiana.

Which said Mrs. Elenora E. Hall declared that she is justly
153 and truly indebted unto Messrs. T. L. Aivey & Co., a copartnership in this city, in the full sum of seventeen thousand five hundred and four $\frac{4.9}{1.0.0}$ dollars, borrowed money, had and received by her under the aforesaid certificate; and in settlement and as evidence of said indebtedness she, said Mrs. Elenora E. Hall, has furnished her three certain prom*m*issory notes drawn to the order of and endorsed by herself, countersigned by her said husband, all dated at New Orleans, La., on the day and date hereof, bearing interest from and after maturity; if not then paid, at the rate of eight per cent. per annum until final payment, and made payable at the Louisiana National Bank, in this city, one thereof for the sum of five thousand seven hundred and sixty-seven $\frac{0.1}{1.0.0}$ dollars, on the first of January, eighteen hundred and seventy-nine; another for the sum of five thousand eight hundred and thirty-six $\frac{6.2}{1.0.0}$ dollars, on the first of February, eighteen hundred and seventy-nine, and the other thereof for the sum of five thousand nine hundred $\frac{8.6}{1.0.0}$ dollars, on the first of March, eighteen hundred and seventy-nine; which said Mrs. Elenora E. Hall, after having been paraphed by me, the said notary, to identify them herewith, were delivered to Alex. T. Janin, of said firm, who hereby acknowledges the receipt thereof.

154 Now, in order to secure the full and punctual payment of said notes in capital and interest at maturity, the said Mrs. Elenora E. Hall moreover declared that she does by these presents specially mortgage and hypothecate in favor of the said T. L. Aivey & Co., their heirs and assigns, and of any and all such person or persons as may hereafter be the holder or holders of the said notes, of the following-described property situated in the parish of East Carroll, of this State, viz., all that certain tract of land, together with the buildings and improvements thereon, and all rights, ways, privileges, and appurtenances thereto belonging, including all machinery, mills, engines, farming utensils, live stock, horses, mules, and their personal effects thereon and thereto attached, situated in the parish of East Carroll, in this State, and known and designated as the "Mound's plantation," and is composed of sections 25 & 26, and all of section 36, part of sec. 35, the southeast quarter of sec. 27, east half of sec. 28, and the east half of northwest quarter of sec. twenty-eight, all in township No. 20 north, of range No. 12 east; also all of sec. 38, in the same township & range, which said Mound's
155 plantation is bounded on the north by lands belonging to Mrs. E. W. Constant, and known as the Neponset place; on the south as well as on the west by lands belonging to the estates of Morgan & Keene, and on the east by lands belonging to A. Keene Richards, known as the Transylvania place.

The said property is so to remain mortgaged and hypothecated

until the full and final payment of the aforesaid notes in capital and interest, the said mortgager hereby binding herself and her heirs not to alienate, deteriorate, nor encumber the same to the prejudice of these presents, which are accepted by said mortgagees through said Janin.

And the said Mrs. Elenora E. Hall further declared that she does by these presents bind and obligate herself to cause all and singular the buildings and improvements on the property aforedescribed to be insured and kept insured against the risk of fire by one of the insurance companies of this city, in the full sum of — dollars, until the full and final payment of the aforedescribed notes, and — to be transferred and delivered unto the said mortgagees the policy or policies of such insurance or insurances; in default whereof said mortgagees and any and all holders of said notes is and are
156 hereby authorized to cause such insurance or insurances to be made and effected at the cost, charge, & expense of the said mortgager; but this clause shall not be construed as obligatory on such holder or holders as making themselves liable for any loss, damage or injury which may result from the non-insurance of the said buildings.

And the said mortgager further declared that she does by these presents consent, agree, and stipulate that in the event of the said notes, or either of them, not being punctually paid at maturity, it shall be lawful for, and she does hereby authorize, the said mortgagees or any other holder or holders thereof, to cause all and singular the property hereinbefore described and herein mortgaged to be seized and sold under executory process (issued by the competent court), without appraisements, to the highest bidder, payable — cash, the said mortgager herein expressly dispensing with all and every appraisement thereof, and by these presents waiving and renouncing the benefit of appraisement, and of all laws or parts of laws relative to the appraisement of movable or immovable effects, etc., seized and sold under executory or other legal process, the said mort-
157 gager hereby confessing judgment in favor of said mortgagees and such person or persons who may be the holder or holders of said notes, for the full amount thereof, capital & interest, together with all costs, charges, and expenses whatsoever.

And the said mortgager further declare- that she does by these presents bind and obligate herself and her heirs to pay and reimburse unto said mortgagees, and such person or persons as may be the said holder or holders of said notes, all such lawyers' or attorneys' fees, together with all such costs, charges, and expenses, as said mortgagees or any such holder or holders shall or may incur or pay in the event of non-payment of said notes at maturity, said atty's' fees, however, to be fixed at five per cent. on the amount so in suit.

Now, to secure the faithful performance of the foregoing obligation, and the reimbursement and payment of the said lawyers' or attorneys' fees, costs, charges, and expenses aforesaid, and the reimbursement and payment of all premium as shall be paid by the said

mortgagees, or any holder or holders of the aforesaid notes, [and] in causing insurance to be effected, on default of said mortgager, as aforesaid, she, the said mortgager, does by these presents
158 further specially mortgage and hypothecate the hereinbefore-described property unto and in favor of said mortgagees and all holders of said notes, or either of them.

And the said mortgager further declared that she does hereby confess judgment for the amount of said notes, with interest as aforesaid, and all costs, charges, expenses, and attorneys' fees as aforesaid; waive- citation and all legal delays, as well as appeals and writs of error, this being her answer and acknowledgment of all indebtedness as aforesaid, as also a formal waiver of legal notices and right of appeal, hereby authorizing and empowering the holder or holders of said notes, or either of them, at once to enter judgment before any court of competent jurisdiction, without any citation or previous notice of any kind, on a mere production of an authentic copy of this act, for the whole or part of said indebtedness, attorneys' fees, costs, charges, expenses, &c., as aforesaid, provided that execution shall be stayed until maturity of the note sued on.

Also, that in case a forced sale should become necessary from any cause whatsoever, whether from failure or inability to pay or otherwise, she does by these presents waive and acknowledge legal service of notice to pay, notice of seizure, notice to appoint an ap-
159 praiser, and to subdivide, waive all legal delays, and consent to the immediate execution of the judgment which may have been entered, hereby promising that no injunction or process of law tending to delay a sale shall be resorted to by her, or by any one holding under her, and renouncing such right or privilege.

And it is expressly agreed and understood by and between the parties hereto that the said mortagees shall have the exclusive right to apply the net proceeds of sales of all products shipped, and all payments of money made to them, to the payment of any indebtedness which may be due now, or which may hereafter become due, to them by said plantation or the said mortager upon open account, or to the debt secured and intended to be secured by this mortgage according to their view of the exigency of the case; that such application may be made at such time and in such manner as they may elect, and that no application of such proceeds of sale or money to the payment of any debt or open account which may at any time be due to said mortagees by said plantation or said mortager shall lessen, impair, or prejudice the debt secured and intended to be secured by this act or instrument, or the security herein or hereby provided for.

160 And the parties hereto declare that they dispense with the production of a certificate of mortgage from the recorder of said parish of East Carroll, as is otherwise required by law, to show herein what mortgages or privileges exist against the herein-described property.

Thus done and passed at my office in New Orleans, in the presence of Paul A. Conand and David J. Dowers, witnesses of lawful

age and residents of this city, who sign these presents with the said parties and me, notary, after due reading thereof.

(Original signed) ELENORA E. HALL.
BEN. E. HALL.
P. A. CONAND.
D. J. DOWERS.
ANDREW HERO, JR.,
Not. Pub.

A true copy of the original act on file and of record in my office. New Orleans, 21st Feb., 1878.

[L. S.] ANDREW HERO, JR.,
Not. Pub.

Certificate of Recordation.

STATE OF LOUISIANA, *Parish of East Carroll:*

I hereby certify that the within mortgage is duly recorded in my office in mortgage book "Q," folios 84, 85, 86, 87, 88.

Given under my hand and seal of office this 2nd day of May, A. D. 1878.

[L. S.] M. E. MASSEE, *Recorder.*

161 THE STATE OF LOUISIANA, *Parish of East Carroll:*

8th Judicial District.

T. L. AIVEY & CO.

vs.

BEN. E. HALL, Ex'r of Elenora E. Hall.

The State of Louisiana and said court to the sheriff of the parish of East Carroll, Greeting:

We command you that by sale of the following-described property, without the benefit of appraisement, to the highest bidder for cash, to wit: All that certain tract of land, together with the buildings and improvements thereon, and all rights, ways, privileges, and appertenances thereto belonging, including all machinery, mills, engines, farming utensils, live stock, horses, & mules thereto attached or thereon situated in East Carroll parish, State of Louisiana, known and designated as the "Mounds plantation," and composed of sec-. 25 & 26, all of sec. 36, part of sec. 35, the S. E. ¼ of sec. 27, the E. ½ of sec. 28, all in township No. 20 north, of range No. 12 east; also all of sec. No. thirty-eight, in same township and range; which said plantation is bounded on the north by lands belonging to Mrs. E. W. Constant, on the south, as well as on the west, by lands belonging to the estate of Morgan & Keene, and on the east by lands

162 belonging to A. Keene Richards, in the manner prescribed by law, you cause to be made the sum of eleven thousand seven hundred and thirty-seven $\frac{48}{100}$ dollars ($11,737.48), with 8% interest per annum on $5,836.62 thereof from Feb'y 1st, 1879, and like rate of interest on $5,900.86 thereof from March 1st, A. D. 1879,

together with 5% att'ys' fees thereon, and $2.60 special costs, and $14.20 ex. clerk's costs & your own costs & $1.00 cost of this writ, to satisfy an order of seizure and sale lately rendered in the late 13th district court of above-named parish & State against the said Ben. E. Hall, executor, and in favor of said T. L. Aivy & Co., and known on the docket of said 13th dist. court as #7189.

The above-described property to be sold without the benefit of appraisement. And of how you shall have executed this writ you make return to our said court in 70 days, as the law directs.

Witness the Hon. E. J. Delony, judge of said court, and the seal of said court, this 11th of May, A. D. 1880.

I. L. LEWIS, *Clerk*,
By T. I. GALBRETH, *D'y Cl'k.*

163 *Sheriff Makes Return of the Manner in which He Executed Writ of Sale.*

Received the within and foregoing writ of seizure and sale on Saturday, the 17th day of April, A. D. 1880, & on Thursday, the 22nd day of same month and year, seized and took into my possession all the real estate, together with the buildings thereon, & all rights, ways, & privileges & appertenances thereto belonging, including all the machinery, mills, engines, farming utensils thereto attached or thereon situated, in this parish of East Carroll & State of Louisiana, described in said writ, together with 13 heads of horses, mares, & colts, 24 mules, 18 cows and calves, 7 oxen, 5 old wagons, 18 plows, 4 sweeps, & a lot of plow gear, notice of which seizure I gave in writing to Benjamin E. Hall, ex'r of Elenora E. Hall, dec'd, in person at his residence, in this said parish and State, on the said 22nd day of April, 1880, and on same day appointed Cyrus A. Hedrick, residing on said premises, keeper of said property, and on Saturday, May 1st, 1880, advertised for sale in the "North La. Republican," a newspaper published weekly in the parish of East Carroll, La., to be sold at the door of the court-house in said parish & State on Saturday, June 5th, 1880, for cash, with the benefit of appraisement.

Whereas the foregoing writ directed that the property described therein should be sold without the benefit of appraise-
164 ment, and whereas the notice of seizure given to defendant on the 22nd day of April, 1880, and the advertisement published on the 1st day of May, 1880, set out that the said property should be sold with the benefit of appraisement, therefore, on the 11th day of May, 1880, I gave notice in writing to Ben. E. Hall, ex'r of Elenora E. Hall, defendant, that said property would be sold at the place aforesaid on the 3rd Saturday, 19th day, of June, 1880, for cash, without the benefit of appraisement, and on the 15th day of May, 1880, I advertised said property for sale in said newspaper to be sold on said 19th day of June, 1880, at the place aforesaid for cash, without the benefit of appraisement.

JOHN ASBERRY, *Sheriff*,
By S. D. OLIVER, *D'y Sh'ff.*

And on said 19th day of June, A. D. 1880, I, M. S. Powell, sheriff, successor of John Asberry, late sheriff, at the place aforesaid, and between the hours prescribed by law, did offer said property for sale at public auction in an audible voice, after having read this writ, the advertisement of sale, and the recorder's certificate of mortgages; whereupon Benjamin E. Hall bid the sum of thirty-one thousand dollars ($31,000.00) for said property, that being
165 the highest and last bid; but he failing to comply with his bid, I was on same day instructed by W. G. Wyly, att'y for plaintiffs, the defendant, Ben. E. Hall, ex'r, consenting and agreeing thereto, to postpone the sale and continue the advertisement till the first Saturday in July; wherefore I acted accordingly, and readvertised said property in said newspaper to be sold at the place and on the terms aforesaid on the 1st Saturday, the 3rd day, of July, 1880. On said last-mentioned day of sale I was again instructed by W. G. Wyly, plaintiffs' attorney (before proceeding to make said sale), to postpone the sale until the next regular sale day.

Wherefore I accordingly again readvertised said property for sale in said newspaper to be sold at the place and on the terms aforesaid on the first Saturday, the 7th day, of August, of said year, but before said last-mentioned day of sale, to wit, on the 22nd day of July, 1880, I was again instructed by W. G. Wyly, plaintiff's attorney, to again postpone the sale until further orders and to discontinue the advertisement, which I accordingly did. Subsequently, on the 12th day of May, A. D. 1884, I was instructed by W. G. Wyly, pl'ffs' att'y, to proceed under this writ, an injunction in suit of Montgomery & Delony *vs.* Ben. E. Hill, ex'r, *et al.*, No. 181, having been dissolved; wherefore, on the 13th day of May, 1884, I gave
166 written notice to the defendant, Ben. E. Hall, ex'r, that I would proceed to advertise and sell the said property on the 3rd Saturday, the 21st, day of June, 1884, & notified him to be present and select his appraiser, and did, on the 17th day of May, 1884, readvertise said property for sale in the E. Carroll Democrat, a newspaper published weekly in this parish, to be sold at the door of the court-house in the town of Providence, in this parish and State, on the 3rd Saturday, the 21st day, of June, 1884, for cash, with the benefit of appraisement, the defendant having elected to avail himself of the benefit thereof, notwithstanding he had waived the right or benefit of appraisement in the original mortgage. And on the said last-mentioned day of sale, at the place aforesaid, between the hours prescribed by law, after having caused said property to be duly appraised, the defendant, Ben. E. Hall, being personally present and s-lecting his own appraiser, and after having read the recorder's certificate of mortgages, together with this writ and the advertisements, I offered said property for sale at public auction in an audible voice; whereupon John A. Buckner, a resident of this parish, became the purchaser thereof for the price and
167 sum of twenty-two thousand dollars ($22,000.00), which sum was in excess of the am't of principal and interest and costs due on this writ, and was in excess of the appraised value thereof, which amount the said purchaser paid in

cash, and of which the sum of $17,745.36 was applied to the satisfaction in full of this writ, including attorneys' fees *as* costs, and the remainder ($4,254.64) was applied in part payment of the debt, interests, and costs due on the writ in suit 150, John A. Buckner *vs.* Ben. E. Hall, ex., and I accordingly return this writ so satisfied. The said property was adjudicated to the said Buckner, he being the last and highest bidder.

June 26th, 1884.

M. S. POWELL, *Sheriff*,
By S. W. FOSTER, *D. S.*

Sheriff Makes Deed of "Mounds" to J. A. Buckner.

STATE OF LOUISIANA, *Parish of East Carroll:*

Eighth District Court.

T. L. AIVEY & Co. [and] JOHN A. BUCKNER
vs.
BEN. E. HALL, Ex'r.
No. 7189. No. 150.

Be it known that by virtue of a writ of seizure and sale issued from said court in the case styled T. L. Aivey & Co., No. 7189, directed to the sheriff of this parish, commanding him to seize and sell the following property belonging to defendant:

168 All that certain tract of land, together with the buildings and improvements thereon, and all the rights, ways, privileges, and appertenances thereto belonging, including all the machinery, engines, and utensils, etc., thereto attached or thereon situated in East Carroll parish, La., known and designated as the Mounds plantation, and composed of sec. 25, 26, & 36, part of sec. 35, the S. E. ¼ of sec. 27, the E. ½ of sec. 28, and the E. ½ of the N. W. ¼ of sec. 28, all in township 20 N., range 12 east; also all of sec. 38, in same township & range. Said plantation is bounded on the north by the lands of Mrs. E. W. Constant, on the south and on the west by lands belonging to Morgan & Keene, and on the east by lands formerly belonging to A. Keene Richards; also 13 mares and colts, 24 mules, 18 cows and calves, 7 oxens, and 5 old wagons, 18 plows, 4 sweeps, and a lot of plow gear—John Asberry, then sheriff of this parish, duly commissioned and qualified, did, on the 22nd day [of] April, 1880, seize and take into his possession all of the above-described real estate, together with the buildings thereon, and all rights, ways, privileges, and appertenances thereto belonging, including all machinery, mills,

169 engines, farming utensils thereto attached or thereon situated as required by said writ; also live stock, wagons, etc., notice of which seizure he gave in writing to Ben. E. Hall, ex'r, in person at his residence, in this parish and State, on the said 22nd day of April, 1880. And the said Asberry, sheriff, did, on the 1st day of May, 1880, advertise said property for sale in the "North Louisiana Republican," a newspaper published weekly in the parish of East Carroll, La., to be sold at the door of the court-

house in said parish on the first Saturday, the 5th day, of June, 1880, for cash, with the benefit of appraisement. Whereas the said writ directed that the property described therein should be sold without the benefit of appraisement, and whereas the notice of seizure given to the defendant of the 22nd day of April, 1880, and the advertisements published on the 1st day of May, 1880, set out that the said property should be sold with the benefit of appraisement, therefore, on the 11th day of May, 1880, I gave notice in writing to Ben. E. Hall, ex'r of Elenora E. Hall, defendant, that said property should be sold at the place aforesaid on the 3rd Saturday, the 19th day, of June, 1880, for cash, without the benefit of appraisement,
170 and on the 15th day of May I advertised said property in said newspaper to be sold on said 19th day of June, 1880, at the place aforesaid, for cash, without the benefit of appraisement, and on the said day of sale, I, M. S. Powell, sheriff, successor of John Asberry, at the place aforesaid, between the hours prescribed by law, did offer said property for sale in bulk, at public auction, in an audible voice, after having read the recorder's certificate of mortgage, this writ, and the advertisement; whereupon Ben. E. Hall bid for said property the sum of thirty-one thousand dollars, and he being the highest and last bidder therefore, the same was struck off to him; but he failing to comply with his bid, I was on the same day instructed by W. G. Wyly, plaintiffs' att'y (the defendant, Ben. E. Hall, consenting thereto), to postpone the sale and continue the advertisement until the 1st Saturday in July; wherefore I readvertise- said property in said newspaper to be sold at the place and on the terms aforesaid, on the 1st Saturday, the 3rd day, of July, 1880. On said last-mentioned day of sale I was again instructed by W. G. Wyly, pl'ff- att'y, to postpone the sale until the next regular sale day; wherefore I again readvertise- said property for sale in said newspaper, at the place and on the terms aforesaid, on the 1st Saturday,
171 the 7th day, of August of same year, but before the last-mentioned day of sale, to wit, the 22nd day of July, 1880, I was again instructed by W. G. Wyly, pl'ffs' att'y, to again postpone the sale until further orders, and to discontinue the advertisement thereof, which I accordingly did.

On the 3rd day of Feb., 1881, I was strictly enjoined by an order of C. A. Hedrick, clerk of the 8th district court (Hon. E. J. Delony having recused himself), from further proceeding with this writ until so ordered by said court.

On the 6th day of May, 1884, the said injunction was dissolved by judgment rendered at chambers by the Hon. J. Harvey Brigham, judge of the sixth district court, and on the 12th day of same month & year I was instructed by W. G. Wyly, pl'ffs' attorney, to proceed with the sale of said property; wherefore, on the 13th day of same month & year, I gave written notice to the defendant, Ben. E. Hall, ex'r, that I would advertise & offer the said property for sale at the door of the court-house in said parish & State, on the 3rd Saturday, the 21st day, of June, 1884, at which time & place I notified him to be present to select an appraiser, he having elected to avail himself of the benefit thereof notwithstanding he had waived the

172 *the* right or benefit of appraisement in the act of mortgage under which said writ issued, and did, on the 17th day of May, 1884, readvertise said property for sale in the East Carroll Democrat, to be sold at the place and on the day aforesaid, between the hours prescribed, for cash, with the benefit of appraisement.

And by further reason and in pursuance of a certain other writ of seizure & sale issued from said court in the case styled John A. Buckner *vs.* Ben. E. Hall, ex., No. 150, to me directed, commanding me to seize and sell the aforesaid described property previously seized in the said case of T. L. Aivey & Co., No. 7189, belonging to the defendant, I, M. S. Powell, sheriff, as aforesaid, did, on the 26th day of November, 1880, seize and take into my possession the said described property, notice of which seizure I gave in writing to Ben. E. Hall, ex'r, in person on the said "Mounds plantation," in this parish, and here suspended further action under this writ. Subsequently, on the 3rd day of Feb'y, 1881, I was also strictly enjoined by said order of C. A. Hedrick, clerk of 8th district court, from further proceeding under this writ until so ordered by this court; and the said injunction having been dissolved by the said judgment rendered at chambers on the 6th day of May, 1884, by

173 the Hon. J. Harvey Brigham, judge of the sixth judicial district, I was on the 12th day of same month and year instructed by W. G. Wyly, plaintiffs' attorney, to proceed with the sale of said property; whereupon, on the 13th day of same month and year, I gave written notice to the defendant, Ben. E. Hall, ex'r, that I would advertise and offer for sale the said described property at the door of the court-house in this parish, on the 3rd Saturday, the 21st day, of June, 1884, at which time and place I notified him to be present and choose an appraiser; and on the 17th day of May, 1884, I did advertise said property for sale in the said East Carroll Democrat to be sold at the place and on the day aforesaid, between the hours prescribed by law, for cash and with the benefit of appraisement; and on the said day of sale, between the hours prescribed by law, at the door of the court-house in the town of Providence, in this parish and State, after causing said property to be duly appraised, the said Ben. E. Hall, ex'r, being present & selecting his own appraiser, and, after reading the said writ and advertisement of sale and the recorder's certificate of mortgages, I offered said property for sale in block at public auction in an audible voice; whereupon John A. Buckner, a resident of this parish,

174 became the purchaser thereof for the total price and sum of twenty-two thousand dollars ($22,000.00), which am't he paid in cash, and of which ($17,745.36) seventeen thousand seven hundred and forty-five $\frac{36}{100}$ dollars was applied to the satisfaction in full of the writ in said suit No. 7189 and the remainder, forty-two hundred fifty-four $\frac{64}{100}$ ($4,254.64) was applied to the payment of the costs, including attorneys' fees, and in part payment of the debt and interest due on the said writ No. 150.

Wherefore the said property was adjudicated in bulk to the said Buckner, he being the last and highest bidder therefor, and this bid being in excess of the full appraised value of the same:

Now, in consideration of the premises, and by virtue of the authority in me vested by the laws of the State of Louisiana, I do hereby sell and adjudicate unto the said purchaser all the right, title, and interest and claim which the said Ben. E. Hall, ex'r, has, or had, [in] and to said property: To have and to hold the same unto the said purchaser, his heirs and assigns, for his and their own proper use, benefit, and behoof forever.

In testimony whereof I hereunto sign my name officially, together with G. W. Foster and Sanders D. Oliver, witnesses, of
175 lawful age, residing in said parish & State, this 26th day of June, A. D. 1884.

M. S. POWELL, *Sheriff.*

Attest:
G. W. FOSTER.
S. D. OLIVER.

The above and foregoing deed is duly recorded in the recorder's records of this parish in conveyance book "R," on folios 185, 186, 187, & 188.

Proceedings had in the monition proceedings of "S. W. Davis *vs.* All the World, No. 184," which proceedings are in the words and figures following, to wit:

Petition.

To the Hon. the judge of the 8th dist. court in and for the parish of East Carroll, Louisiana:

The petition of Silas W. Davis, a resident of this county of Audriane, State of Mississippi, respectfully shows that on the 5th day of February, A. D. 1880, at a succession sale in the succession of W. D. King, which is now being administered in your said parish by Ben. E. Hall, curator thereof, he purchased the following-described property, situated in your said parish and State, to wit: The undivided half interest in & to the following-described lands—the ½ of the S. E. ¼ of sec. No. 5; the whole of sec. No. 18, lots 1, 2, 3, 5, 6, and 12 of sec. No. 19, and that portion of land commencing at "Swan Lake," between sections 7 & 18; thence north to Joe's bayou; thence along Joe's bayou to the range line, between ranges
176–177 11 & 12; thence south to a stake at the southwest corner of sec. No. 7, all in township No. 20, range No. 12 east; also the S. ½ of the S. E. ¼ of sec. No. 12 and E. ½ of sec. No. 24, township No. 20, range 11 east, district of lands north of Red river, the said undivided half of said tract containing eight hundred and sixty-two & $\frac{6}{100}$ acres;" that said sale was made in the town of Lake Providence, parish & State aforesaid, by said Ben. E. Hall, curator aforesaid, under a writ of sale issued out of your said court to said curator on an order granted by your honor on the application of said curator to sell property of said succession of Wm. D. King, for the purpose of paying the debts thereof.

That he paid for the same the sum of eight hundred and sixty-two and $\frac{6}{100}$ dollars in cash, the price of said sale, and that he de-

sires to have the said sale confirmed and homologated and his title thereto by reason thereof confirmed and protected by a monition according to law.

Wherefore, considering the premises, he prays your honor — grant him a monition according to law, calling upon all persons who can set up any right to the said property, in consequence of informality in the aforesaid order or decree of your said court under
178 which the said sale was made as aforesaid, or any irregularity or illegality in the appraisement or advertisement thereof, in the time and manner of said sale, or for any other defect whatsoever, to show cause within thirty days from the day the said monition is first published in the public newspapers why the said sale so made should not be confirmed and homologated; that said monition may be published for thirty days as the law requires, and that upon due hearing and trial thereof the same may be homologated and the afore- sale to petitioner be confirmed and homologated in all things as directed by law; prays also for all proper orders and decrees, & for general relief in the premises.

J. M. KENNEDY, *Att'y.*

Order Granting Monition.

Upon reading and considering the foregoing petition and application, it is ordered that a monition be granted said purchaser as prayed for according to law, and that the same be published thirty days, as required by law.

Done and signed in chambers this 10th day of February, 1881.

E. J. DELONY,
Judge 8th Judicial Dist.

179 *Monition.*

To all whom it may concern:

Whereas Silas W. Davis, a resident of the county of Audriane and State of Mississippi, has filed in the clerk's office of the 8th district court of the parish of East Carroll, State of Louisiana, his petition and application for a monition, showing that on the 5th day of February, 1881, at a probate sale in the succession of Wm. D. King, dec'd, at the door of the court-house, in the town of Lake Providence, in the parish and State aforesaid, he purchased for the price and sum of $862.06, which price he paid in cash, the following-described property, situated in the aforesaid parish and State, to wit: The undivided half interest in & to the following-described lands: The half of the S. E. ¼ of sec. No. 5, the whole of sec. No. 18, lots 1, 2, 3, 4, 5, 6, and 12 of sec. 19, and the portion of land commencing at "Swan Lake," between secs. 7 & 18; thence north to Joe's bayou to the range line between ranges 11 & 12; thence south to a stake at the southwest corner of sec. No. 7, all in township 20, range 12 east; also the S. ½ of the S. E ¼ of sec. No. 12 and S. E. ¼ of sec. No. 24, township No. 20, range 11 east, the said undivided half of said tract containing eight hundred and sixty-two $\frac{6}{100}$ acres; and whereas said

sale took place under and by virtue of a writ of sale issued
180 out of the aforesaid court, in the succession of Wm. D. King, dec'd, to Ben. E. Hall, the curator of said succession, on order and decree of said court obtained by said curator to sell property to pay the debts of said succession, and the said purchaser, the said Davis, having applied for a monition in such cases made and provided to protect purchasers in their titles acquired at judicial sales: Now, therefore, I, the undersigned, judge of said court, have granted, and do hereby grant, this the said monition as prayed for by the said purchaser, in the name of the State of Louisiana and under the seal of said court, and in the name of said State I do hereby call upon all persons who can set up any right to the aforesaid property in consequence of any informality in the said order or decree of said court under which the said sale was made, or any irregularity or illegality in the appraisement or advertisement thereof, or in the time and manner of sale, or for any other defect whatsoever, to show cause within thirty days from the day this monition is first inserted in the public newspaper- why the said sale so made as aforesaid should not be confirmed and homologated.

Witness my official signature and the seal of said court this 10th day of Feb'y, 1881.

E. J. DELONY,
Judge 8th Judicial Dist.

181 *King's Heirs File Their Opposition to Homologation of Sale.*

8th District Court, Parish of East Carroll.

S. W. DAVIS
vs. } No. 184.
ALL THE WORLD.

And now comes Mistress Elizabeth J. L. King, wife of James M. Norman, and James M. Norman, her husband, who joins his said wife herein for the purpose of aiding, assisting, and authorizing her in this opposition, and Miss Eunice H. King, all of whom reside in the county of Copiah, State of Mississippi, who aver that they are the only heirs and legal representatives of the late W. D. King, dec'd, whose succession has been regularly opened and is now being administered in your said parish, and in answer to the monition granted by your hon. court upon the application of S. W. Davis on the 10th of Feb'y, A. D. 1881, in the above-styled suit, pray to oppose the confirmation and homologation of the same upon the grounds and reasons following, to wit:

1st. The order for the sale of said property was illegally granted and upon insufficient evidence to justify the necessity for said sale.

2nd. The said illegal order thus granted was illegally executed by Ben. E. Hall, curator of said succession, who, for purposes of his own fraudulent and nefarious plans to defraud these appearers out
of their rightful inheritance, selected this particular property
182 to be sold, instead of advertising and having exposed for sale the productive property having a market value, to wit:

the Mounds plantation belonging to said succession, and more especially bound for the debts due by said succession.

3rd. The said sale was not duly advertised according to law.

4th. The property claimed to be sold was not appraised according to law, nor was it sold according to law.

5th. None of the requirements of the law were complied with, and said sale was made contrary to law.

Wherefore, in consideration of the premises, these appearers respectfully pray that there be judgment rejecting the application for the confirmation and homologation of said monition, and that said sale be annulled; pray for general relief.

FARRAR & SPENCER,
Att'ys for Opponents.

Extract from Minutes of District Court of March 15th, 1881.

TUESDAY, *March 15th*, 1881.

Court met pursuant to adjournment. * * *

S. W. DAVIS
vs. } 184.
ALL THE WORLD.

Opposition of Mrs. Elizabeth Norman and Miss. Eunice H. King to the monition herein filed.

183 *Extract from Minutes of Oct. 21st, 1881.*

FRIDAY, *Oct. 21st*, 1881.

Court met pursuant to adjournment.

* * * * * * *

S. W. DAVIS
vs. } 184.
ALL THE WORLD.

Exception to opposition of heirs filed; exception referred to the merits upon motion of counsel for opponents; case taken up for trial, evidence heard, and the case postponed for argument.

Judg't in the Dist. Court. Order of Appeal.

Extract from Minutes of Oct. 22nd, 1881.

SATURDAY, *Oct. 22nd*, 1881.

Court met pursuant to adjournment.

* * * * * * *

S. W. DAVIS
vs. } 184.
ALL THE WORLD.

Argument of counsel heard and judgment rendered against plaintiffs, refusing to homologate the monition and an-ulling the sale, but reserving to plaintiff the right to proceed against the

curator of the succession of W. D. King for the recovery of the money paid by him in the purchase of the property. See decree. Motion for new trial filed and motion taken up, tried, & overruled; and, on motion of plaintiff's counsel, opponents' counsel being present in open court and taking cognizance thereof—

It is ordered that a suspensive and devolutive appeal be granted to plaintiff from the judgment rendered in this case upon his executing his bonds, with good and solvent security, for the
184 suspensive appeal in the sum of eight hundred and sixty-two $\frac{6}{100}$ dollars and for the devolutive appeal in the sum of twenty-five dollars, said appeals being returnable to the circuit court of appeals sitting in the parish of East Carroll, Louisiana, on the second Monday of November next, 1881.

Appealed from the 8th District Court.

2nd Circuit Court, Parish of East Carroll.

S. W. DAVIS
vs.
ALL THE WORLD. } No. 16.

The plaintiffs sued out a monition to confirm his title to certain lands purchased by him on the 5th day of Feb'y, 1880, at a sale of the succession property of the estate of W. D. King, dec'd. The homologation of the monition was opposed by Mrs. Elizabeth J. L. King, wife of James M. Norman, and Miss Eunice H. King, who allege they are the sisters and sole heirs of their deceased brother, W. D. King. The grounds of the opposition set up by the heirs are in substance as follows:

1st. The order of sale was granted on insufficient evidence.

2nd. That the order of sale was fraudulently obtained by the curator for his own purposes and to defraud the heirs, and that the interest of the succession in the Mounds plantation, which possessed a market value and which was more especially bound for the
185 debts, should have been sold instead of that which was ordered to be sold and which possessed no market value.

3rd. That the sale was not duly advertised according to law.

4th. That the property was neither appraised nor sold according to law.

These objections will be considered in their order.

1st. The decree ordering the sale appears to be in due form. The sufficiency of the evidence on which it was based cannot be enquired into collater-y in the mode of proceedings, but only by a direct action to annul the judgment. The decree ordering the sale protects third persons purchasing unless its nullity is absolute.

2nd. There is no evidence that the decree was fraudulently obtained, or that other property was more especially bound for the debts than that sold. Such evidence, had it been offered, could not have been considered in the present form of proceedings.

3rd. The evidence shows that [the] property was not advertised for thirty days, as required by law. This appears to be an informality fatal to the validity of the sale.

4th. We find no other appraisement of the property than that contained in the inventory, which was made more than three years before the sale. Property in this locality is so changeable in value
186 that, as a rule, an appraisement made so long before the sale would not indicate the value of the property at the time of the sale. Under the evidence before us, however, we are not prepared to say the omission to have a reappraisement made at the time of sale was a fatal defect.

On behalf of the purchaser it is contended—

1st. That, as a condition precedent to the right to revoke the sale, the price he paid for the property should have been tendered to him prior to the filing of the opposition, and that such tender has neither been alleged nor shown. It is true, as a rule, that in actions to revoke sales made under the decrees of court, when the price of property has been paid by the purchaser, an offer to return the price must be alleged and proved as a condition precedent to the right of action to revoke the sale, and the question is presented, Does an opposition to the confirmation of judicial sale by monition form an exception to the rule? The counsel for the plaintiff contend that an opponent to the confirmation of a sale by monition occupies, to all intents and purposes, the position of a plaintiff in an action in revindication. We have attentively examined the authorities cited in his brief, and are unable to find that the precise question presented has been
187 passed upon by our supreme court. We are satisfied, however, from the very nature and object of the proceedings, that such cannot be the law.

The object of the monition act was merely to provoke an inquiry into the legality of the proceedings which preceded and accompanied judicial sales, and the homologation of such sales has no other effect than to cure such nullities. 12 L., 561.

The monition is in the nature of a citation, whereby all persons interested are called upon to show cause why the sale should not be declared valid. Under this call all persons having an interest may make opposition, whether heirs or creditors, but the effect of sustaining the opposition is not to vest the title in the opponent, but only to set aside the sale. If the theory of the plaintiff's counsel is correct, then any creditor or the deceased who might be interested in setting aside the sale must, before he can be heard, tender back the purchase price which he has never received.

This would be a very expensive mode of exercising a legal right, and, if such is the law, would exclude all persons in interest from making such opposition, except such parties as had secured the price. Such construction of the law is clearly inadmissable.
188 We therefore hold that in this class of cases no tender of price is necessary.

2d. It is contended that the opponent occupies as to the proof of his allegations the petition of a plaintiff, and that it devolved on

him to show the invalidity of the sale. Such is undoubtedly the law.

3rd. That no informalities in the order of sale or as to the sufficiency of the evidence on which that order is based can be enquired into in this proceeding. This point has already been determined.

4th. That the opponents have not shown an interest sufficient to entitle them to be heard. It is shown that they are the sole heirs of the deceased, whose succession is under the[ir] administration. As such they have a residuary interest in his succession. Whether they are to recover anything or not from the succession depends greatly upon the legality and fidelity of the administration. They have, therefore, an interest in seeing that the property is legally sold so as to bring the largest price. This position is fully sustained by our supreme court in the suit of Gillespy, guardian, *vs.* The Citizens' Bank of Louisiana, reported in 30 An., page 1315. In that case it was held that the beneficiary heirs, who were only entitled to a residuum in the succession of their ancestor, although they were not entitled to recover possession of the estate property
189 illegally sold, could sue to reduce the debts of the succession, or to bring into it property in the succession of others which had been illegally sold. We are clear that in the present suit the heirs had such an interest as entitled them to oppose the homologation of the monition.

5th. It is contended that the price arising from the sale went to pay the succession debts; that the land brought its full value. Therefore the heirs were benefited rather than injured by the sale.

We find no evidence in the record showing what has been done with the money arising from the sale, nor do we consider this point material, unless it were shown that the heirs had received all or a portion of it. As to the price, the evidence satisfies us that the property sold for less than its real value, and that for this reason the heirs have all the legal right to avail themselves of any informality invalidating the sale.

We are satisfied that there were nullities in procuring the sale, particularly in the failure to advertise the property for thirty days, which renders the adjudication null, but this nullity ought not to effect a restoration of the property to the succession until the
190 purchase price and the interest thereon *is* restored to the purchaser.

It is therefore ordered, adjudged, and declared that the judgment appealed from be amended as follows:

That the opposition to the homologation of the sale be sustained and the sale annulled and set aside, providing the heirs or legal representatives of the succession within sixty days from this date return to the plaintiffs eight hundred and sixty-two $\frac{6}{100}$ dollars, the price paid for the property, with five per cent. interest per annum thereon from the 5th day of February, 1881, till paid, and in default of such payment within the time specified the sale to be considered valid.

It is further decreed that the appellee pay the costs of this court and the appellant those of the district court.

Signed this the 18th day of Nov'r, 1881.

O. MAYO,
A. A. GUNBY,
Judge- 2nd Circuit Court of Appeals.

Proceedings had in the monition proceedings of Hays & Defee- which proceedings are in the words & figures, to wit:

Petition.

To the hon. the judge of the 8th dist. court in and for the parish of East Carroll, Louisiana:

The petition of Francis M. Hays and James M. Defee, both residents of the city of Lake Providence, parish of East Carroll,
191 and State of Louisiana, respectfully show- that on the 5th day of February, A. D. 1881, at a succession sale, in the succession of William D. King, which is now being administered in your said parish by one Ben. E. Hall, as curator thereof, they purchased the following-described property, being situated in your said parish and State, to wit: The undivided half of the following lands: The N. ½ of sec. (6) six, township No. 20, range No. 12 east, containing 331.20 acres; also one hundred and nineteen $\frac{84}{100}$ acres of the north part of sec. No. 5, to be divided by a parallel line to be run or running east & west, so as to make the total of (523.04) acres, five hundred and twenty-three $\frac{4}{100}$ acres, the one-half being two hundred and sixty-one $\frac{54}{100}$ acres, all being known as the "Lick Skillet place," situated in the said parish & State; that said sale was made in the town of Lake Providence, parish of East Carroll, and State of Louisiana, by said Ben. E. Hall, curator aforesaid, under a writ of sale issued out of your said court to said curator on an order granted by your "honor" on the application of said curator to sell the property of said succession of Wm. D. King for the purpose of paying the debts thereof; that they paid for the same the sum of two hundred and
192 sixty-one $\frac{54}{100}$ ($261.54) dollars in cash, the price — said sale, and that they desire to have said sale confirmed and homologated, and their title thereto by reason thereof confirmed and protected by a monition according to law.

Wherefore, considering the premises, they pray that your honor grant them a monition according to law, calling upon all persons who can set up any right to said property, in consequence of informality in the aforesaid order or decree of your said court under which the said sale was made, as aforesaid, or any irregularity or illegality in the appraisement and advertisement thereof, in the time and manner of said sale, or for any other defect whatsoever, to show cause within thirty days from the day said monition is first published in the public "newspapers" why the said sale so made as aforesaid should not be confirmed and homologated.

That said monition may be published for thirty days, as the law requires, and that upon due hearing and trial thereof the same may be homologated and aforesaid sale to petitioner be confirmed and homologated in all things as directed by law.

Prays also for all proper orders & decrees; for general relief in the premises.

J. M. KENNEDY, *Att'y.*

193 *Order Granting Monition.*

Upon reading and considering the foregoing petition and application, it is ordered that a moniton be granted the said purchasers as prayed for, according to law, and that the same be published thirty days, as required by law.

Done and signed in chambers this 10th day of Feb., 1881.

E. J. DELONY,
Judge 8th Judicial Dist.

To all whom it may concern:

Whereas Francis M. Hays and James M. Defee, both residents of parish of East Carroll and State of Louisiana, have filed in the clerk's office of the 8th district court of the aforesaid parish and State their petition and application for a monition, showing that on the 5th day of Feb'y, 1881, at a probate sale in the succession of Wm. D. King, dec'd, at the door of the court-house in the town of Lake Providence, in the parish of East Carroll and State of Louisiana, they purchased for the price and sum of $261.54, which price they paid in cash, the following-described property, situated in the aforesaid parish and State, to wit: The undivided half of the following lands: North half of sec. six (6), township No. 20, range No. 12 east, containing 331.20
194 acres; also one hundred and nineteen $\frac{84}{100}$ acres of the north part of sec. No. 5, to be divided by a parallel line to be run or running east & west, so as to make the total of 523.04 acres (five hundred and twenty-three $\frac{4}{100}$), the one-half being 261.54 acres, all being known as the "Lick Skillet" place, situated in this parish and State;

And whereas said sale took place under and by virtue of a writ of sale issued out of aforesaid court in the succession of William D. King, dec'd, to Ben E. Hall, curator of said succession, on an order and decree of said court, obtained by said curator, to sell property to pay debts of said succession, and the said purchasers, the said Francis M. Hays and James M. Defee, having applied for a monition in such cases made and provided, to protect purchasers in their titles acquired at judicial sales: Now, therefore, I, the undersigned, judge of said court, have granted, and do hereby grant, this the said monition, as prayed for by the said purchasers, [and] in the name of [the] State of Louisiana and under the seal of said court and in the name of said State I do hereby call upon all persons who can set up any right to the aforesaid property in consequence of any informality in the said order or decree of the said court under which the
195 said sale was made, or any irregularity or illegality in the appraisement or advertisement or in the time and manner of sale, or for any other defect whatsoever, to show cause, within thirty days from the day this monition is first inserted in the public newspapers, why said sale so made as aforesaid should not be confirmed and homologated.

Witness my official signature and the seal of said court this the 10th day of Feb'y, 1881.

E. J. DELONY,
Judge, 8th Judicial Dist.

Opposition of Heirs.

FRANCIS M. HAYS and JAMES M. DEFEE *vs.* ALL THE WORLD.

And now comes Mrs. Elizabeth J. L. King, wife of James M. Norman, and James M. Norman, her husband, who appears herein for the purpose of aiding, assisting, and authorizing his said wife in these proceedings, and Miss Eunice H. King, a *femme sole*, all residing in the county of Copiah, State of Mississippi, who aver that they are the sole heirs and only legal representatives of the late W. D. King, dec'd, whose succession has been regularly opened and is being administered in your said parish, and, in answer to the monition granted by your hon. court upon the application of Frank
196 M. Hays and James M. Defee on the 10th of Feb'y, 1881, in the above-styled application for monition, pray to oppose the confirmation and homologation of the same upon the following grounds and for the following reasons, to wit:

1st. The order for the sale of said property was illegally granted.

2nd. The said order thus illegally granted was illegally executed by the said Ben. E. Hall, claiming to act as curator of said succession, who, for purposes of his own fraudulent and nefarious plans to defraud these appearers out of their rightful inheritance, selected this particular property to be sold instead of advertising and having exposed for sale the productive property, having a market value, to wit, the Mounds plantation, belonging to said *plantation* and more especially bound for the debts due by said succession.

3rd. The said sale was not duly advertised according to law.

4th. The property claimed to be sold was not appraised according to law, nor was it sold according to law.

5th. None of the requirements of the law were properly complied with, and said sale was made contrary to law.

Wherefore, in consideration of the premises, these appearers respectfully pray that there be judgment rejecting the application for the confirmation and homologation of said monition, and
197 that said sale be annulled; pray for general relief, &c.

FARRAR & SPENCER,
Att'ys for Opponents.

Extract from Minutes of District Court of March 15th, 1881.

TUESDAY, *M'ch 15th*, 1881.

Court met pursuant to adjournment.

* * * * * * *

F. M. HAYS and J. M. DEFEE
vs.
ALL THE WORLD. } No. 185.

Opposition of Mistress Elizabeth Norman and Miss Eunice H. King to the monition herein filed.

Extract from Minutes of Oct. 17th, 1881.

MONDAY, *Oct.* 17*th*, 1881.

Court met pursuant to adjournment.

* * * * * * *

F. M. HAYS and J. M. DEFEE
vs.
ALL THE WORLD. } 185.

Filed for Saturday next, Oct. 22nd, 1881.

Extract from Minutes of Oct. 21st, 1881.

FRIDAY, *Oct.* 21*st*, 1881.

Court met pursuant to adjournment.

F. M. HAYS & J. M. DEFEE *vs.* ALL THE WORLD.

Exception to opposition of heirs filed, taken up, and referred to the merits upon motion of counsel for opponents; case taken up for trial, evidence heard, and the case postponed for argument.

198 *Extract from Minutes of Oct. 22nd, 1881.*

SATURDAY, *Oct.* 22*nd*, 1881.

Court met pursuant to adjournment.

* * * * * * *

F. M. HAYS & J. M. DEFEE
vs.
ALL THE WORLD. } No. 185.

Argument of counsel heard and judgment rendered against plaintiff- refusing to homologate the monition and annulling the sale, but reserving to plaintiff- the right to proceed against the curator of the succession of W. D. King for the recovery of the money paid by them in the purchase of the property. See decree.

Motion for new trial filed. Motion taken up, tried, and overruled; and on motion of plaintiffs' counsel, opponents counsel being present in open court and taking cognizance thereof, it is ordered that a suspensive and devolutive appeal be granted plaintiff from the judgment herein, upon his executing his bonds, with good and solvent security, for the suspensive appeal in the sum of two hundred and sixty-one $\frac{54}{100}$ dollars and for the devolutive appeal in the sum of twenty-five dollars, said appeals being returnable to the circuit court of appeals, sitting in the parish of East Carroll, Louisiana, on the second Monday of November next, 1881.

199 *Judg't of Dist. Court.*

8th District Court, Parish of East Carroll.

FRANCIS M. HAYS and JAMES M. DEFEE
vs.
ALL THE WORLD. } No. 185.

Opposition of heirs.

This case having been regularly fixed for trial, called and tried, and the applicants for monition having been heard by their evidence and counsel, and the law and evidence being against the applicant for monition, it appearing that the sale sought to be homologated and confirmed was made contrary to law, it is, therefore, by reason thereof ordered, adjudged, and decreed that the application for monition herein sued out & the prayer for the homologation & confirmation of same be rejected; and that the sale made by Ben. E. Hall, curator of the succession of W. D. King, dec'd, on the 5th day of Feb'y, A. D. 1881, to Francis M. Hays & James M. Defee of certain lands belonging to said succession, and more particularly described in the deed to them made, under and by virtue of said pretended sale, be annulled, avoided, and declared to be of no effect; and it is further ordered that the right to sue the succession of W. D. King, dec'd, for the recovery of the amount paid by the applicants herein upon said illegal and void sale be reserved to them; and it is further ordered that the applicants herein pay all the costs of this proceeding.

200 Read and signed in open court this 22nd day of Oct., A. D. 1881.

E. J. DELONY,
Judge 8th Judicial Dist.

201 *Judgment of Circuit Court of Appeals.*

2nd Circuit Court, Parish of East Carroll.

An appeal from the 8th district court.

This case is in all respects nearly similar to that of S. W. Davis *vs.* All the World, just decided, it being also a monition suit to confirm the sale of certain property purchased by the plaintiff at the same sale and under the same decree. The parties made the same opposition as in said Davis case, the pleadings, issues, and evidences being similar in both cases; the one seems a counterpart of the other, with the exception that the land purchasers and price differ. It is, therefore, for the reasons set forth in suit No. 16 on the docket of this court, entitled S. W. Davis *vs.* All the World, ordered, adjudged, and decreed that the judgment appealed from be amended as follows: That the opposition to the homologation of the sale be sustained, and the sale annulled and set aside, provided the heirs or legal representatives of the succession of W. D. King, deceased, within sixty days from the date of this decree, return to the plain-

tiffs herein two hundred and sixty-one $\frac{54}{100}$ dollars, the price
202 paid for the property, with five per cent. per annum interest thereon from the 5th day of Feb'y, 1881, till paid, and in default of such payment within the time specified, the sale to be considered *ralid*. It is further decreed that the appellee pay the costs of this court and that the appellant pay the costs of the district court.

Signed this 18th of Nov., 1881.

O. MAYO,
A. A. GUNBY,
Judge- 2d Circuit, Court of Appeals.

203 Proceedings had in the suit of Montgomery and Delony *vs.* Ben. E. Hall, ex'r, — T. L. Aivey & Co., and Jno. A. Buckner from selling the Mounds plantation, under mortgage, which are in the words and figures following, to wit:

Petition.

To the hon. the judge of the 8th district court of the State of Louisiana, in and for the parish of East Carroll:

The petition of Field F. Montgomery & Edward J. Delony, both residents of East Carroll parish, with respect shows—

That on the 16th day of Oct., 1877, Ben. E. Hall, a resident of your said parish, became the curator and qualified as such of the succession of Wm. D. King, and received letters as such from the parish court of your said parish.

That he gave bond as such curator in the sum of twenty-six thousand and five $\frac{50}{100}$ dollars, and has since had possession and entire control and management of the property of the same, amounting, according to the inventory taken at the time to twenty-three thousand eight hundred and four $\frac{50}{100}$ dollars.

Petitioners show that, in connection with John A. Buckner and Elenora E. Hall (wife of said Ben. E. Hall), they become
204 sureties upon the bond given by said Hall as curator aforesaid for the faithful performance of his duties as such.

They show further that, notwithstanding said Hall has had the management and administration of said property for several years, he has not rendered any account of his said administration, nor has he in any manner accounted for the personal property and revenues which he has received, and some of which personal property has been sold at administrator's sale; but, although often requested to do so, said Hall has constantly refused to render any account of his administration as required by law.

They show that among the property which came into his hands as such curator was the undivided half of a large and valuable plantation situated in your said parish, known as the "Mounds plantation," together with a large number of mules on the same, and also a storehouse & lot of goods on the said place.

That subsequent to his qualification as curator Mrs. Elenor E. Hall, his wife, represented by said Ben. E. Hall, by some pretended

arrangement with certain persons pretending to be the heirs of said W. D. King, pretended to purchase said undivided interest in the said Mounds plantation, mules, & storehouse and goods in the same

205 That in payment for same said Mrs. Elenora E. Hall executed her promissory notes, one for two thousand dollars and one for three thousand dollars, dated Feb'y 19th, 1878, & due on 1st Jan'y, 1880 & 1881, and payable to her own order and by her endorsed, and in all the transactions duly authorized and assisted by said Ben. E. Hall.

That to secure the payments of said notes said Mrs. Hall mortgaged the said undivided half interest of said Mounds plantation, store, stock, &c.

That John A. Buckner, a brother of said Mrs. Elenora E. Hall, now pretends to be the owner of the said two notes, and has procured an order of seizure and sale upon said half interest of said Mounds plantation & other property mentioned in the said pretended mortgage, & has issued a writ thereon, & the sheriff of East Carroll parish has advertised the same to be sold on the 5th day of Feb'y, 1881; all of which will be seen by reference to the executory proceedings on file in your said court, styled John A. Buckner *vs.* Ben. E. Hall, ex'r, No. 150 on the docket of your hon. court, and the advertisement in the Lake Providence Herald, published in said parish.

Petitioners further show that said Mrs. Elenora E. Hall, authorized and assisted by Ben. E. Hall, did, on 21st Feb'y, 1878, pretend to mortgage said undivided half interest of said succession

206 of W. D. King in the said Mounds plantation to T. L. Aivey & Co., of New Orleans, Louisiana, and that upon said pretended mortgage the said T. L. Aivey & Co. have procured an order of seizure and sale, and the same has been advertised for sale by the sheriff on the 5th day of Feb'y, 1881.

Now, your petitioners show that the interest of King's succession in the said Mounds plantation constitutes much the largest portion in value of the said succession, and, in fact, that the balance of the property belonging to said succession, being swamp, waste, & overflowed lands, is of but little value, and petitioners fear and believe will not be sufficient to pay off the debts due by the said succession.

They show said Hall, curator, has filed to make an opposition to the steps being taken by said Buckner and said T. L. Aivey & Co. to sell said property, but, as they believe and charge, is acting in collusion with them, with the design of enabling them or one of them to buy said property at a very reduced price, and to the great injury and loss of the creditors of said succession.

That all his acts since he became curator show an entire want of good faith to the creditors and heirs of W. D. King, and they

207 fear that should said sale be made and the title to said property pass out of said succession by the bad faith, misconduct, & collusion of said Hall with said Buckner & T. L. Aivey & Co., petitioners, as sureties on his administrator's bond, would be made liable, and the- fear they will suffer an irreparable injury.

They show that the proceedings and attempt to sell said property under said pretended mortgages held by said Buckner and said T. L. Aivey & Co. at this time and before the succession is closed are illegal, and that said Hall has allowed the sheriff under said writs in his hands to take actual and entire possession of said property, and to take the same out of his possession as curator aforesaid, before the succession is closed & before the interests of the heirs of King is determined in the same, & that his object and intention and the objects and intentions of said Buckner and T. L. Aivey & Co. are to deprive said succession of its ownership and defeat the claims of the heirs and the creditors.

Wherefore they pray that a writ of injunction may issue enjoining the sheriff of East Carroll parish, M. Shelby Powell, the said Buckner, and said T. L. Aivey & Co. & said Hall from further proceeding under said order and writ to sell said undivided one-half interest in
208 the Mounds plantation & the store and mules & the other property belonging to the succession of W. D. King until the further order of this court, and that said persons be cited to answer hereto, and that said property be decreed to belong to said succession and subject to the debts of the same.

That said Hall, curator, be ordered to file an account of his administration of said succession on a day to be fixed by your honor, and on his failing to do so that he be destituted and some suitable person be appointed curator in his stead, and that the succession be placed in his hands to be administered according to law.

That on final hearing said injunction be made perpetual.

For costs and general relief.

F. F. MONTGOMERY, *Att'y.*

Field F. Montgomery, one of the foregoing petitioners, being duly sworn, says that all the facts and allegations contained in the foregoing petition are true, and that E. J. Delony is interested in this suit and cannot give the order.

F. F. MONTGOMERY.

Sworn to and subscribed before me this 3rd day of Feb., A. D. 1881.

CHAS. R. EGELLY,
Justice of Peace.

Order.

209 Upon reading the foregoing petition and affidavit, it is ordered that a writ of injunction issue as prayed for on petitioners giving bond and security in the sum of ten thousand dollars, conditioned according to law.

Done and signed in chambers on this the 3rd day of Feb., A. D. 1881.

C. A. HEDRICK,
Clerk 8th Dist. Court.

In this case, being a party in interest, I hereby recuse myself, and appoint his honor J. Harvey Brigham, judge of the sixth judicial district, to try the same.

Done and signed in chambers this 5th day of Feb'y, 1881.

E. J. DELONY,
Judge 8th Judicial Dist.

I hereby accept service of the within petition, waive citation and service of the writ of injunction, & take cognizance of the order of injunction.

M. S. POWELL, *Sheriff*,
By A. G. BELDEN, *D'y Sh'ff.*

Extract from Minutes of District Court of Date Oct. 17th, 1881.

MONDAY, *Oct. 17th*, 1881.

Court met pursuant to adjournment.

Present: His honor E. J. Delony, judge; F. H. G. Taylor, d'y cl'k; M. S. Powell, sheriff.

210 F. F. MONTGOMERY and E. J. DELONY
vs.
BEN. E. HALL. } No. 181.

The judge, being personally interested in this case, recused himself and appointed Judge J. Harvey Brigham, judge of the sixth judicial district, to try the same.

Judgment, see page 135.

211 *R. E. Hall Applies for App't as Ex'r of Mrs. E. E. Hall.*

Succession of Mrs. ELENORA E. HALL.

To the hon. the judge of the parish court in and for the parish of East Carroll:

The petition of Benjamin E. Hall, residing in the parish of East Carroll and State of Louisiana, with respect shows—

That on the — day of ——, 1879, his wife, Elenora E. Hall, departed this life in this parish, leaving a considerable estate, consisting of movables and immovables in this parish; that deceased left a last will and testament in olographic form, whereby petitioner was instituted her universal legatee, and appointed testamentary executor and dispensed from giving bond.

Petitioner desires that said will, which he presents, herewith annexed and made part hereof, marked "A," may be duly proved, registered, and ordered to be executed, and that letters testamentary may issue to him; also that an inventory be made and an attorney for absent heirs be appointed.

Petitioner shows that his deceased wife left no children or de-cendants, but only a mother and collateral heirs, to whom her
212 estate in Kentucky was bequeathed; that the Eaton succession, real and personal, in Louisiana, was bequeathed to petitioner.

Premises considered, petitioner prays that said will may be prover, registered, and ordered to be executed according to law; that letters testamentary be delivered to him; that a commission issue to C. R. Egelly, notary public, to take an inventory, and that C. M. Pilcher, attorney-at-law, be appointed attorney for absent heirs, and for all necessary orders and decrees, and for general relief.

W. G. WYLY, *Att'y.*

Upon reading and considering the foregoing petition, and being satisfied of the death of Mrs. Elenora E. Hall, it is ordered that on the 3d day of March, 1880, at 12 o'clock m., at the court-room in the town of Providence, parish of East Carroll, Louisiana, the said last will and testament of the said Mrs. Hall, deceased, be duly presented to me for probate and homologation according to law, and all persons interested are hereby ordered to appear at said time and place and show cause, if any they have, why the same should not be probated, recorded, and executed according to law; and
213 let the attorney for absent heirs of said deceased, resident of this parish, be duly notified to attend at said time and place upon the opening and proving of said will; and let the said will be proved before me at said time and place by the number of witnesses required by law; and let C. M. Pilcher be appointed attorney of absent heirs, and be present at the time and place of said opening and proving [of] said will; and let C. R. Egelly, notary, take the inventory.

Read and signed at chambers, in Lake Providence, this 11th Feb'y, 1880.

M. Du BOSE,
Parish Judge.

I accept the appointment of attorney for absent heirs.
Providence, M'ch 3rd, 1880.
(Signed) C. M. PILCHER.

Mrs. E. E. Hall's Last Will.

COVINGTON, *Oct.* 21, 1877.

I, Elenora E. Hall, do will and bequeath to my husband, Ben. E. Hall, my entire interest in the Mounds plantation, with all the improvements upon said place; my interest also in the store on the Mounds plantation, in the State of Louisiana; also everything belonging to me in the State of Louisiana I leave to my husband.

214 I wish to be buried by the side or near my father in Highland cemetery.

I also wish all the funeral expenses paid from the two-thousand-dollar-note owing to me by the estate of my father. The remainder of said note, with interest, due and unpaid, I wish, after deducing my funeral expenses, to be divided equally between my two brothers, Coll. J. A. Buckner and Dr. J. H. Buckner. My proportion of the Edgwood farm I leave to my mother; my cluster diamond ring to my

sister Kate; my soltaire to Louise; my garnet and emerald rings to Lizzie; my watch and chain and turquoise ring to my niece, Annie Henry. My silver butter-dish, my silver knives, dinner and des-ert, I give to my sister, Sallie Henry.

I wish my dear husband to see that these little bequests are carried into effect immediately, and do make him sole administrator without bond.

Oct. 21st, 1877.

ELENORA E. HALL.

Witnessed by—
PRESCILLA D. KEITH.
SARAH A. BRECK.

[Written across the face in red ink on page 213, and twice on page 214:] *Ne Varietur.* M. Du Bose, parish judge.

STATE OF LOUISIANA, *Parish of East Carroll:*

Parish Court.

215 In the Matter of the *Probability* of the Last Will of Mrs. ELENORA E. HALL, Deceased.

Personally came and appeared before the undersigned authority, in the town of Providence, at the court-room, on Wednesday, March 3rd, A. D. 1880, John A. Buckner, a resident of the above-named parish and State, who, being duly sworn, says that he was well acquainted with the said late Mrs. Elenora E. Hall, and that the said Mrs. Elenora E. Hall died on the 2nd day of Sept., 1879, and that the document exhibited and marked A is in the handwriting of Mrs. Elenora E. Hall. Witness having often seen her write and sign her name, he knows said document is wholly written and signed by said Mrs. Elenora E. Hall and dated by her.

JOHN A. BUCKNER.

Sworn to and subscribed before me this 3rd day of March, A. D. 1880.

M. DU BOSE,
Parish Judge.

And at the same time and place personally came and appeared Cyrus A. Hedrick, who, being duly sworn, deposes and says that he was well acquainted with Mrs. Elenora E. Hall, and often saw her write and sign her name, and knows that the document ex-
216 hibited to witness, marked A, to be in the handwriting of Mrs. Elenora E. Hall, the same being wholly written, dated, and signed by her.

CYRUS A. HEDRICK.

Sworn to and subscribed before me on this 3rd day of March, A. D. 1880.

M. DU BOSE,
Parish Judge.

STATE OF LOUISIANA, *Parish of East Carroll:*

Parish Court.

In the Matter of Opening and Proving the Last Will and Testament of Mrs. ELENORA E. HALL, Deceased.

Be it remembered that pursuant to an order heretofore rendered by me, parish judge of the parish of East Carroll, in the above and foregoing matter, fixing the 3rd day of March, 1880, at the court-room in the town of Providence, parish and State aforesaid, for the opening and proving of the last will and testament of the late Mrs. Elenora E. Hall, at 12 o'clock m.:

At the said time and place the document A, purporting to be the last will and testament of Mrs. Elenora E. Hall, deceased, made in the olŏgraphic form and herewith filed and annexed, was presented to me for opening and proving by John A. Buckner; whereupon at said time and place, after being satisfied of the death of the testa-
217 trix, Mrs. Elenora E. Hall, I, said judge, proceeded to open the said document A, purportings to be the last [will] and testament of the said deceased; and Cyrus A. Hedrick, resident of said parish and State, being sworn, did depose and say that he was well acquainted with Mrs. Elenora E. Hall, and that the said Mrs. Hall died on the 22nd day of September, 1879, and that said will, marked A, is wholly dated, written, and signed in the handwriting of Mrs. Elenora E. Hall, he having often seen her write and sign her name.

And at the same time and place John A. Buckner, being sworn, said that the late Mrs. Elenora E. Hall died on the 2nd day of September, 1879; that he was well acquainted with the handwriting of the deceased, and he recognizes document "A" hereto attached to be entirely dated, written, and signed in the handwriting of said deceased; that he has often seen her write and sign her name.

Wherefore, being satisfied of the death of the testatrix, Mrs. Elenora E. Hall, I, said judge, proceeded to open said document "A," purporting to be the last will and testament of the said deceased, and being satisfied of the genuineness of same, and the said will and proof being in legal form, I proceeded to read the said last will
218 and testament in an audible voice (and distinct) to the witnesses and other persons present, the counsel for absent heirs being present. I signed the same *ne varietur* at the beginning and end of each page and signed the same with my official signature; and by virtue of the power in me vested as judge aforesaid I do hereby order that the will marked A be duly registered, executed, and recorded according to law, and order that the same be deposited in the office of the clerk of this court as a part of the archives thereof, and also that letters testamentary issue to Ben. E. Hall, testamentary executor.

Thus done and signed in chambers on this the 3rd day of M'ch, A. D. 1880.

M. DU BOSE,
Parish Judge.

STATE OF LOUISIANA, *Parish of East Carroll:*

Parish Court.

I, Benjamin E. Hall, do solemnly swear that I will faithfully perform and discharge the duties incumbent on me as executor of the succession of Mrs. Elenora E. Hall, deceased, according to the best of my ability and understanding, so help me God.

BEN. E. HALL.

Sworn to and subscribed before me this 3rd day of M'ch, A. D. 1880.

T. I. GALBRETH,
Deputy C-erk.

219 STATE OF LOUISIANA, *Parish of East Carroll:*

Parish Court.

Be it remembered that whereas Benjamin E. Hall has been appointed executor of the succession of the late Mrs. Elenora E. Hall, deceased, and, having taken the oath required by law, — is, therefore, fully authorized and empowered to perform and discharge the duties of said appointment.

Witness the Hon. M. Du Bose, judge of said court, and the seal of said court, this the 3rd day of March, A. D. 1880.

[SEAL.] T. I. GALBRETH, *D'y Clerk.*

Inventory of Estate of Mrs. E. E. Hall.

STATE OF LOUISIANA, *Parish of East Carroll:*

Be it known and remembered that in pursuance of an order issued by the hon. probate court in and for the parish and State aforesaid and to me directed, and dated the 3rd day of March, A. D. 1880, authorizing and requiring me to make an inventory and cause an appraisement to be made of all the property, effects, rights, & credits of and belonging to the succession of the late Mrs. Elenora E. Hall, deceased, I, Chas. R. Egelly, a notary public in and for the
220 parish of East Carroll, La., duly commissioned and sworn, and for the purpose aforesaid specially commissioned, as will appear by reference to the aforesaid commission to me issued by the hon. probate court in and for the parish and State aforesaid, which is annexed hereto and made a part of this my process-verbal, I proceeded to take an inventory of the said succession by appointing F. A. Robbins and C. A. Hedrick appraisers, both residents of the parish and State aforesaid, to whom I administered the following oath:

We each of us do solemnly swear that we will well and truly appraise and the true cash value place upon all the property, effects, rights, and credits of and belonging to the succession of the late Mrs. Elenora E. Hall which may be submitted to us for *over* decision, to the best of our ability and understanding, so help us God.

F. A. ROBBINS.
E A. HEDRICK.

Sworn to and subscribed before me on this the 11th day of M'ch, A. D. 1880.

CHAS. R. EGELLY,
Notary Public.

And, after having so sworn the said appraisers, I proceed with said inventory in the following order, to wit:

221 *Item 1st. Open Ac's & Notes.*

	Amount.	App'd at.
William Birdlong, ac.	11 75	11 75
Stephen Davis, "	8 56	8 56
Henry Foster, "	8 90	0 00
George Williams, ac.	42 68	20 00
O. C. Wossman	16 50	0 00
Abram Bass	94 90	10 00
Estate of Glenn Freeman	8 54	8 00
George Raymond	4 80	0 00
Ellen Pope	29 56	0 00
Chas. McAllister	279 53	0 00
John Stogner	27 20	27 20
York Price	15 67	15 67
James W. Dunn	5 26	0 00
Green Richardson	12 55	12 55
A. G. Belden	16 25	No value.
Peter Vinson	41 55	0 00
Neford & Hornthal	2 00	2 00
A. G. Belden, note	75 00	0 00
Bosen Brown, "	186 86	0 00
Grandison Cohn, "	367 24	50 00
A. Cunningham, "	110 00	50 00
Esau Coleman, "	32 20	0 00
P. W. De France, "	368 68	0 00
A. Cunningham, mortgage	1,370 43	1,000 00
Warren Fields	47 75	0 00
Clark N. Hall, note	25 90	0 00
George Guier, "	45 00	0 00
Miles Hays, "	108 42	0 00
Levi Gambric, "	132 36	0 00
Elis Jones, "	149 60	100 00
Isaac R. Keller, af't	37 90	0 00
John Miller, note	121 13	121 13
	3,804 67	1,446 86

222 Fourteen hundred and forty-six $\frac{86}{100}$ dollars.

Item Second.

A certain lot of goods in warns, merchandise, store fixtures, and office fixtures	2,600 00	2,000 00
Two thousand dollars	2,600 00	2,000 00

Item 3rd. Live Stock.

13 horses, mares, & colts	50 00	650 00
24 mules	75 00	1,800 00
18 cows & calves	8	144 00
7 oxen	15 00	105 00
		$2,699 00

Total [of] item third, twenty-six hundred and & ninety-nine dollars.

Item Fourth. Farming Implements.

5 old two-horse wagons	10 00	50 00
18 plows	6 00	108 00
4 sweeps	3 00	12 00
1 lot plow gear		25 00
		195 00

Total [of] item fourth, one hundred & ninety-five dollars.

223 *Item Five. Household Furniture.*

One lot of household and kitchen furniture contained in the dwelling-house on Mounds plantation, app'd at $200 00

Total [of] item five $200 00

Item Sixth. Real Estate..

A certain cotton plantation, known as the Mounds plantation, located and situated in the parish of East Carroll, Lousiana, together with all the improvements thereon, consisting of a storehouse, gin-house, saw-mill, dwelling-houses, and plantation cabins, the said plantation aforesaid being more fully described as parts of sections 25 & 26, all of sec. 36, part of sec. thirty-five, the S. E. ¼ of sec. 20, the E. ½ of sec. 28, and the E. ½ of *of* N. E. ¼ of sec. 28, all in T. No. 20 north, of range No. 12 ea- ; also all of sec. 38, in the same township and range, which said land is bounded on the north by lands belonging to Mrs. E. W. Constant, known as the Neponsett place, on the south as well as on the west by lands belonging to the estate of Morgan & Keene, and on the east by the plantation known as Transylvania, being the same property acquired by R. Tabman
224 Keene by inheritance from the estate of Dr. W. B. Keene.

The said Mounds plantation herein described embraces what is known as the Mounds plantation, and front- and back- — Tompkins' places, and containing in the aggregate twenty-three hundred (2,300) acres of land, more or less, appraised as follows:

800 acres of improved land, with the buildings thereon, app'd at $25.00 per acre	$20,000 00
1,500 acres of swamp land, appraised at 1.25 per acre	1,875 00
	$30,875 00

Total [of] item sixth, thirty thousand eight hundred and seventy-five dollars.

Recapitulation.

Item 1st.	Open ac. & notes	$1,446 86
" 2nd.	Stock of goods	2,000 00
" 3rd.	Live stock	2,699 00
" 4th.	Farming implements	195 00
" 5th.	Household furniture	200 00
" 6th.	Real estate	30,875 00
		37,415 86

Total amount of inventory, thirty-seven thousand four hundred and fifteen $\frac{86}{100}$ dollars.

Thus done, inventoried, and appraised at one setting, without turning aside to other business or acts, in the parish of East
225 Carroll, Louisiana, in the presence of Chas. H. Trevis and Wm. Ghouse, lawful witnesses, residing in said parish and State, who sign hereto with said appraisers and me, notary, on this the 11th day of March, in the year of our Lord one thousand eight hundred and eighty.

F. A. ROBBINS.
C. A. HEDRICK.
CHAS. R. EGELLY,
Notary Public.

Attest:
C. H. TRAVIS.
WM. GHOUSE.

226 *Creditors of Mrs. E. E. Hall Ask That Her Ex'r Give Bond.*

Proceedings had in the request of the creditors of Mrs. E. E. Hall that her executor, Ben. E. Hall, be compelled to give bond, which proceedings are in the words and figures following, to wit:

Petition.

To the hon. judge of the 8th district court in and for the parish of East Carroll, Louisiana:

The petition of Bartley, Johnson & Co., a commercial firm composed of Wm. T. Bartley and Willa V. Johnson, domiciliated and doing business in the city of Louisville, State of Kentucky, and of Wm. Glenn & Sons, a commercial firm domiciliated and doing business in the city of Cincinnati, State of Ohio, and of [the] "Perin & Gaff Manufacturing Co.," a commercial firm also located & doing business in said city of Cincinnati, and Joseph McElroy & Co., a commercial firm domiciliated and doing business in the city of New Orleans, of this State, and of Hirsch & Lowenstein, a commercial firm domiciliated and doing business in the aforesaid city of Cincinnati, Ohio, with respect shows—

That petitioners, each and all, are creditors of the succession of the late Mrs. Elenora E. Hall, dec'd, having claims against the

same for money, all of which are liquidated, due, and unpaid
227 and have been acknowledged by the executor of same; that said claims are for the following amounts and reasons, to wit:

Your petitioners, Bartley, Johnson & Co., in the sum of three hundred and thirty-eight and $\frac{11}{100}$ dollars, with 5% per annum interest thereon from Jan'y 23d, 1879, and the further sum of 3 & $\frac{34}{100}$ dollars, because that on Nov. 23rd, 1879, said Mrs. Elenora E. Hall was indebted unto said Bartley, Johnson & Co. in said sum of $338.11, and said Barley, Johnson & Co., at said date, in settlement of same, drew a draft for same upon said Mrs. Hall, th-ough her duly authorized agent, Ben. E. Hall, due & payable in two month- from date thereof, which was duly accepted according to its tenor, and which she promised to pay, and which draft, upon due presentment for payment, was duly protested, the amount of the protest fees thereon being the aforesaid sum of $3.34, and which still remains unpaid; your petitioners, Wm. Glenn & Sons, in the sum of *of* two hundred and twenty-five & $\frac{27}{100}$ dollars, with 5% per annum interest thereon from Jan'y 16th, 1879, for this, to wit, that on Nov. 2nd, 1879, the said Mrs. Hall, being indebted unto said Wm. Glenn & Sons in the said sum named, executed and delivered to them in settlement of the
228 same, through her duly authorized agent, said Ben. E. Hall, her draft for said sum on T. L. Aivey & Co., of New Orleans, La., to the order of said Wm. Glenn & Sons, payable in seventy-five days from date, which was duly presented for payment to the drawees, payment refused, and the said drawer duly notified thereof, and which said Mrs. Hall promised to pay, but which is still unpaid; your petitioners, Perin & Gaff Manufacturing Co., in the sum of one hundred and nine & $\frac{35}{100}$ [dollars], with 5% per annum interest thereon from Dec. 2nd, 1878, for this, to wit, that on the 2nd day of Nov., 1878, said Perin & Gaff Manufacturing Co. sold & delivered to said Mrs. Hall, through her duly authorized agent aforesaid, a bill of goods, wares, & merchandise to said amount, payable in thirty days, which the said Mrs. Hall also promised to pay, but which is still due; your petitioners, Joseph McElroy & Co., in the sum of four hundred and eighty-four & $\frac{40}{100}$ [dollars], with 8% per annum interest thereon from Oct. 1st, 1879, for this, to wit, that on Jan'y 15th, 1879, said Mrs. Hall, being indebted unto them in said sum of $484.40, did execute & deliver to them, through her aforesaid duly authorized agent, her promissory note for said sum, bearing said interest
229 from maturity, drawn to their said order & made due & payable on Oct. 1st, 1879, which is still unpaid. Your petitioners, Hirsch & Lowenstein, in the sum of two hundred and sixty-six & $\frac{35}{100}$ dollars, with 5% per annum interest thereon from June 24th, 1880, for this, to wit, that on the 24th day of Feb'y, 1880, the said Mrs. Hall, being then indebted to said Hirsch and Lowenstein in the said sum of $266.35, your said petitioners, said Hirsch and Lowenstein, did make and draw in settlement of same upon said Mrs. Hall, through her aforesaid duly authorized agent, their order or draft for said sum to their own order *or draft for said sum to their own order*, payable in four months from date, to wit, on June

24th, 1880, which was duly accepted by said drawee, but which yet remains unpaid: Now, your petitioners show that said Mrs. Hall departed this life in your said parish in the month of Sept., 1879, and that the succession now being administered in your said parish by her surviving husband, Ben. E. Hall, a resident of said parish, as testamentary executor thereof, and that he is administering the same without bond; that he qualified as such executor and
230 without bond on the 3rd day of March, 1880; that he has acknowledged all of the claims herein set out, and has time and again promised to pay the same, but has never done so; that the inventory of said estate amounts to $37,415.86, and petitioners fear that he is wasting the revenues & assetts of the estate, and will continue to so waste them, and to misapply those coming into his hands, so that in the end they will lose their debts.

Petitioners, each & all, therefore show to the court, that they are desirous of, and it is necessary to so do, compelling the said testamentary executor to give security for his said administration.

Wherefore, considering all the premises and the annexed affidavit and article No. 1677 of the revised civil code, they pray that said executor may be ordered & commanded to give bond and security for his said administration of said succession, in amount exceeding by one-fourth the aggregate amount of all their respective claims herein set up, principal & interest, within thirty days from the service of said order upon him, and failing therein the same shall *ipso facto* work an immediate removal of said executor; pray also for all necessary and proper orders and decrees in the premises.

J. M. KENNEDY,
Att'y for All the Petitioners.

231 *Affidavit.*

STATE OF LOUISIANA, *Parish of East Carroll:*

J. M. Kennedy, att'y for all the petitioners in the within and foregoing petition, demanding that security be given by Ben. E. Hall, executor of the succession of Mrs. Elenora E. Hall, dec'd, being duly sworn, says:

That all of his said clients are absent from the State, except Joseph McElroy & Co., who are also absent from this Parish; and that the facts and allegations of said petition are true to the best of his knowledge and belief.

J. M. KENNEDY.

Sworn to & subscribed before me this 17th day of Dec., 1880.

E. J. DELONY,
Judge 8th Judicial District.

Mrs. Hall's Executor Ordered to Give Bond.

Upon reading and considering the foregoing petition and affidavit, it is ordered that the prayer thereof be granted, and Ben. E. Hall, testamentary executor of the succession of Mrs. Elenora E. Hall, dec'd, now being administered in this court by him without bond,

do give bond and security for his said administration of said succession within thirty days from service of this order, said bond to be in an amount exceeding by one-fourth the aggregate amount of principal and interest of all the claims against said succession set up in the aforesaid petition, and that his failure so to do shall
232 *ipso facto* work his immediate removal from said executorship.

Done and signed in open court this 17th day of Dec., 1880.

E. J. DELONY,
Judge of 8th Judicial Dist.

Sheriff's Return.

Received a copy of the within petition & order on Friday, Dec. 17th, 1880, and on same day, month, and year served said copy by handing the same to Ben. E. Hall in person in the town of Providence, East Carroll parish, La.

M. S. POWELL, *Sheriff*,
By A. G. BELDEN, *D. S.*

STATE OF LOUISIANA, *Parish of East Carroll:*

Eighth District Court.

In the Matter of the Succession of Mrs. ELENORA E. HALL.

Know all men by these presents that we, Ben. E. Hall, as principal, and John A. Buckner, as security, both of said parish & State, are held and firmly bound unto E. J. Delony, judge of said court in and for said parish and State, and his successors in office, in the sum of one thousand nine hundred and fifty dollars, lawful money of the United States of America; for the payment of which we bind ourselves, our heirs and legal representatives, firmly by these presents.

This the 18th day of Jan'y, A. D. 1881.

The condition of the above obligation is this: That whereas the above-bound Ben. E. Hall has been appointed by our said
233 court as test'y executor of the property, rights, and credits of the said succession, and has been required to give bond, as provided in suit No. 27, on application of creditors: Now, if the above-bound Ben. E. Hall shall well and truly administer the property and effects of the said suc'r of Mrs. Elenora E. Hall, and a true and correct account thereof render to our said court in the time and manner pointed out by the statutes of this State, and the said account shall be duly approved and homologated by our said court, then the above obligation to be null and void; otherwise to remain in full force and effect.

BEN. E. HALL, *Executor.*
JOHN A. BUCKNER.

Filed Jan'y 18th, 1881.

F. H. G. TAYLOR, *D'y Clerk.*

And endorsed on the back of the above & foregoing petition are the following words and figures, to wit:

"No. 27. Succession of Mrs. Elenora E. Hall. Petition of creditors to compel executor to give bond. Filed Dec. 17th, 1880. F. H. G. Taylor, d'y clerk."

234 *Extract from Minutes of Dec. 17th, 1880.*

FRIDAY, Dec. 17th, 1880.

Court met pursuant to adjournment.

Succession of ELENORA E. HALL.

Petition of creditors to compel executor to give bond filed.

Prayer thereof granted, and executor ordered to give bond as therein directed. See decree.

235 *Egelly, C. R., Applies for App't as Ex'r of Mrs. Hall's Estate.*

To the hon. the judge of the 8th district court in and for the parish of East Carroll, Louisiana:

The petitioner of Chas. R. Egelly, who resides in your said parish, respectfully shows that the succession of Mrs. Elenora E. Hall, which heretofore has been administered in your said parish, is now vacant and without an administrator of any kind; that one Ben. E. Hall had been administering said succession without bond, as the testamentary executor thereof, the said Mrs. Hall having died testate, and her last will and testament having been probated and said Ben. E. Hall confirmed as executor thereof, for all of which petitioner refers the court to the *mortuaria* of said succession.

That on the 17th day of December last (1880), certain creditors of said succession obtained an order from your honor, under art. 1677 of the revised civil code of this State, commanding and ordering the said testamentary executor to give bond and security as required by said article, and as directed in said order, within thirty days from the service of said order on said testamentary executor, and that the failure of said executor to give the required security within said time should *ipso facto* work his immediate removal
236 from said executorship. Petitioner refers to the said proceedings of said creditors for proof hereof, and herewith exhibits the same; that said order was duly served on said testamentary executor on the 17th day of Dec. last (1880), and although he was present in the parish he entirely failed to give the required bond and security within the delay allowed, and thus his immediate removal from said executorship was worked *ipso facto* by said failure.

Now, your petitioner shows that he is a privileged creditor of said succession, and also represents a number of other creditors thereof; that said succession owes large amounts; that it is cultivating a large cotton plantation; that there [are] special bequests contained in the last will & testament of said dec'd to be executed, and that a further administration thereef is absolutely necessary, and that your petitioner is desirous of administering the same for the benefit of all concerned.

Wherefore, considering the premises, petitioner prays that after due notice given and all legal delays and requirements fulfilled, he may be appointed & qualified as dative testamentary executor of said succession of Mrs. Ellenora E. Hall, dec'd, and for all proper and necessary orders in the premises.

F. F. MONTGOMERY,
J. M. KENNEDY, *Att'ys.*

237 STATE OF LOUISIANA, *Parish of East Carroll:*

Chas. R. Egelly, applicant in the foregoing petition, being duly sworn, says that the allegations contained therein are true & correct, and that the Hon. E. J. Delony, judge of the aforesaid court, is now absent from the parish.

CHAS. R. EGELLY.

Sworn to and signed before me this 28th day of Jan'y, 1881.

C. A. HEDRICK,
Clerk 8th Dist. Court.

Upon reading and considering the foregoing petition, affidavit, & documents & proceedings referred to, it is ordered that the prayer of the petitioner be granted; that the application of said Chas. R. Egelly be published according to law, and if no opposition be made thereto within ten days thereafter he be appointed and qualified as dative testamentary executor of the succession of Mrs. Ellenora E. Hall, dec'd, upon his giving bond and security as required by law.

Done & signed in chambers in the absence of the district judge on this the 28th day of Jan'y, 1881.

C. A. HEDRICK,
Clerk of District Court.

238 *Notice.*

Notice is hereby given that Chas. R. Egelly has applied to be appointed dative testamentary executor of the succession of Mrs. Elenora E. Hall, dec'd. If no opposition is made thereto within ten days from publication of this notice he will be appointed accordingly.

C. A. HEDRICK,
Clerk 8th Dist. Court.

The above and foregoing petition is endorsed on the back thereof in the following words and figures, to wit:

"Succession of Mrs. Elenora E. Hall. Application of Chas. R. Egelly for administration. Filed Jan'y 28th, 1881. F. H. G. Taylor, d'y clerk."

Feeling aggrieved at the proceedings taken out by C. R. Egelly in the succession of Mrs. Leonora E. Hall, Ben. E. Hall, testamentary executor of said estate, on the 7th day of Feb'y, 1881, by his

attorney, W. G. Wyly, filed in the clerk's office his petition for injunction, which petition is as follows, to wit:

Petition.

To the hon. the judge of the 8th district court in and for the parish of East Carroll.

The petition of Benjamin E. Hall, testamentary executor of
239 succession of Mrs. Elenora E. Hall, dec'd, residing in said parish & State, with respect shows—

That on — day of —— petitioner was duly confirmed testamentary executor of the last will and testament of his deceased wife, Mrs. Elenora E. Hall, having been named in the will as universal legatee and testamentary executor; that petitioner caused an inventory to be made and the succession to be duly opened, and was proceeding to administer the same with a view to protect the interest of all creditors, as well as the residuary interest likely to accrue to him under the will, when the mortgage creditors of deceased, T. L. Aivey & Co., began the foreclosure of their large mortgage against deceased, which covered virtually the whole property of deceased, at least all the valuables and productive part thereof. Under said foreclosure the sheriff appointed a keeper, who holds the custody of the said mortgaged property and otherwise hinders and impedes the administration thereof; besides this there has been another foreclosure and seizure by John A. Buckner under a large mortgage held by him; also there is another seizure under *fi. fa.* in judg't, styled Bryan P. Scalley *vs.* Ben. E. Hall. In the midst of these seizures and complications, occurring without the fault of
240 petitioner, he has endeavored to protect the property and keep all the laborers possible on the Mounds plantation; that, according to the opportunities he has had, he has used every means in his power to faithfully perform the fiduciary duties of executor & has used his best efforts to administer said succession honestly & for the best interest of creditors.

Petitioner shows that his past efforts in the direction stated have not been appreciated by rapacious creditors, who have combined, it seems, to prevent a proper and faithful administration of the est. Not only mortgage creditors have seized and hindered the administration, but ordinary creditors have combined and put their heads together to prevent, by all technical tricks and quibbles possible, petitioner from performing the functions of testamentary executor of the last will of his deceased wife. It seems they are determined, if possible, on any pretext to oust him of the administration and to defeat the will of the deceased that petitioner should administer the estate left by her. He is even denied a trial, a fair opportunity to execute the trust confided to him. The ordinary creditors affect to believe that there interests were not safe in the hands of petitioner, and therefore require bond under
241 article 1677, revised code, just as though it were in the power of petitioner to squander the estate, waste its revenues,

or make away with any of the property thereof. While the sheriff was in possession of the "Mounds plantation" & movables & products thereon (the entire property of deceased), under foreclosure of the mortgages stated and under the seizure under *fi. fa* stated, how was it possible for ordinary creditors whose entire claims only aggregated about $1,400.00 *dollars* to seriously believe that petitioner was about to waste the estate or dispose of the property thereof to their prejudice, when they presented their application to require bond from petitioner on 17th Dec., 1880 (see suit No. 27, styled succession of Mrs. Elenora E. Hall, petitione*r* of creditors to compel executor to give bond), in view of the fact at that time and since—indeed, almost from the hour the succession was opened to the present time—the sheriff has had all the property under seizure & sale & under the *fi. fa* as aforesaid, and a keeper in charge? To show a disposition on his part to do everything reasonable men might expect or ask, petitioner
242 came forward promptly and in good faith, gave a good, sufficient, & valued bond, as required by order of the court, although at the time and since all the property (supposed to be represented by said bond) was in the actual custody of the sheriff under the seizures stated, all of which will appear by the bond and papers in said suit No. 27, styled suc. of Mrs. Elenora E. Hall, petition of creditors to compel executor to give bond, annexed hereto and made part hereof.

Petitioner shows that, notwithstanding he complied with the order of the court in good faith & gave valid bond, affording all the protection they could ask or expect under article 1677 of the revised code, said creditors are not satisfied. They propose to prosecute the matter further and to continue to harass, hinder, and prevent any administration whatever by petitioner. The real motive, the sole vexatious purpose they have in view, is now disclosed in the application of one Chas. R. Egelly for the administration of the succession of petitioner's dec'd wife, which application is filed in the said suit and is hereto annexed and made part hereof.

Petitioner alleges the real object in all this combination
243 and vexatious proceedings — to find some pretext or quibble to deprive, without a showing, petitioner of *of* the administration of his deceased wife's estate because he refuses to allow illegal and unjust claims and charges presented by said creditors and others, and also because petitioner refused to allow the unreasonable charge of $100.00 made out and presented by said Egelly for notarial work in taking the inventory of the succession property left by petitioner's deceased wife; said notarial services petitioner could not estimate higher than twenty dollars, and therefore declined to allow the same as a just claim against the estate. The real object of all these ordinary creditors is to intimidate and coerce petitioner—to hold over his head threatened destitution and endless vexatious litigation—with a view to "compel" the allowance of unjust claims, or to get possession of the estate, if possible, and conduct the same according to their own interests.

Petitioner alleges that said Egelly is not a creditor of deceased, &

is wholly without interest, except as to his alleged fee as notary for taking the inventory, which is so palpably unjust that petitioner could not allow it.

Petitioner allege- that the said ordinary creditors who called
244 for a bond, under article 1677 of the revised code, as aforesaid, are also now wholly without interest to carry on this vexatious litigation, because the security contemplated by the said article has been given and they have now all the relief they were entitled to call for under said article. Suppose it was one day later than that fixed by the court, as contended by them (which is denied), still, in good faith, a good bond was given under said order before any complaint arose on account thereof and before any rights were prejudiced or loss sustained by said creditors or the succession. In law, therefore, there is no forfeiture of the administration and no vacancy to be filled; consequently the application of said Egelly for the appointment of dative executor of estate of Mrs. Elenora E. Hall is wrong, injurious, and unjust.

The said interference of said Egelly and his illegal effort, & that of his confederates, to — petitioner of his administration of said succession, inventoried at over twenty thousand dollars, has damaged petitioner in the sum of five hundred dollars attorneys' fees, and in general damages one thousand dollars, and if the same is not arrested by injunction irreparable injury will be the result to petitioner & the estate he represented. Wherefore petitioner prays
245 that on giving bond and making affidavit according to law that an injunction issue restraining the said Chas. R. Egelly from proceeding further with his application to be appointed dative executor of said estate, or in any manner interfering with petitioner as testamentary executor of said last will of Mrs. Elenor E. Hall, until further order of court and for all necessary orders in the premises; that said Egelly, residing in said parish & State, may be duly cited — & *on* trial, that said injunction may be perpetrated, and petitioner be decreed to be the lawful representative of said estate and no vacancy exists in the administration thereof. Petitioner further prays for judg't against said Chas. R. Egelly for five hundred dollars special damages as attorneys' fees, and one thousand dollars for costs and general damages resulting to petitioner and said succession from his illegal interference & vexatious litigation, injuring petitioners' proper administration of said estate. Petitioner further prays for costs & for general relief.

W. G. WYLY, *Att'y.*

Personally appeared before the undersigned authority Ben. E. Hall, who, being duly sworn, deposes and says that the allegations and statements of the foregoing petition are true and correct.
246 BEN. E. HALL.

BEN. E. HALL, *Executor.*

Sworn & subscribed before me this 5th day Feb'y, 1881.

C. A. HEDRICK,
Clerk 8th District Court.

The foregoing petition and affidavit considered, it is ordered that a writ of injunction issue as prayed for upon petitioner giving bond in the sum of twenty-five hundred dollars, conditioned according to law.

Read and signed at chambers on this 7th Feb'y, 1881.

E. J. DELONY,
Judge 8th Judicial Dist.

I take cognizance of the injunction herein & waive service of citation, copy of petition, & legal delays to save costs. I accept service this 7th Feb'y, 1881.

CHAS. R. EGELLY.

The foregoing is endorsed on the back thereof, as follows, to wit: "No. 27. Ben. E. Hall, tes., ex., *vs.* Chas. R. Egelly. Petition for injunction. Filed Feb'y 7th, 1881. F. H. G. Taylor, d'y clerk."

247 *Injunction Bond.*

STATE OF LOUISIANA, *Parish of East Carroll:*

Eighth District Court.

BEN. E. HALL, Ex'r,
vs.
C. R. EGELLY. } No. 183.

Know all men by these presents that we, Ben. E. Hall & Ben. E. Hall, ex'r, as principal, and John A. Buckner, as security, are held and firmly bound unto said C. R. Egelly (def't herein) in the sum of twenty-five hundred dollars, lawful money of the United States of America, to be paid to the said Egelly; for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, & assigns, firmly by these presents.

This the 7th day of Feb'y, 1881, A. D.

Whereas the said Ben. E. Hall, ex'r, hath this day presented a petition for an order thereon to the clerk of said court, authorizing and requiring him to issue a writ of injunction restraining the said C. R. Egelly from proceeding any further in the prosecution of his application to be appointed dative executor of the succession of Mrs. Elenora E. Hall, and from interfering in any manner with said Ben. E. Hall in his administration of said succession until further orders of this court:

Now, the condition of the above obligation is that we, the above bound Ben. E. Hall and John A. Buckner, will well and truly
248 pay the said C. R. Egelly all such damages as may be recovered against us in case it should be decided that the injunction was wrongfully obtained.

BEN. E. HALL.
BEN. E. HALL, *Executor.*
JOHN A. BUCKNER.

And endorsed on the back of the injunction of Ben. E. Hall, by him filed in his injunction proceedings against C. R. Egelly, are to be found the following words and figures, to wit:

No. 183. Ben. E. Hall, test. ex'r., *vs.* Chas. R. Egelly. Injunction Bond. Filed Feb'y 7th, 1881. F. H. G. Taylor, d'y cl'k.

249 *John A. Buckner Intervenes.*

Extract from Minutes of July 5th, 1881.

8th District Court, Parish of East Carroll.

TUESDAY, *July 5th*, 1881.

Court met pursuant to adjournment.

Present: E. J. Delony, judge; Jno. B. Stone, dist. att'y; M. S. Powell, sheriff; F. H. G. Taylor, d'y clerk.

BEN. E. HALL, Ex'r,
vs.
CHARLES R. EGELLY. } 183.

To the hon. the judge of the eighth dist. court in and for the parish of East Carroll:

The petition of Jno. A. Buckner, residing in said parish & State, with respect shows—

That he is the first-mortgage creditor of suc. of Mrs. Elenora E. Hall, as will appear by his order of seizure & sale against said succession No. 150, made part hereof. He alleges that Charles R. Egelly is not and never was a creditor of the deceased & is wholly without interest to interfere in the administration thereof; that he has no right to be affirmed administrator, assuming that there is a vacancy, which is denied. Said Ben. E. Hall having in good faith given bond under article 1677 of the revised code, and at the time believing that the legal delays had not elapsed, petitioner was surety and signed said bond, believing the legal delays had
250 not expired; that, assuming the said bond was given one day too late, no rights have been injured or lost; in the meantime a good & valid bond is given binding petitioners. The end and object of article of 1677 is obtained, & in law there is no valid cause for destitution of the executorship of said succession.

But in event it should be held by the court that there was from any cause a forfeiture of said administration, & there is a vacancy, petitioner alleges that he is entitled to the administration in preference to said applicant, Chas. R. Egelly, or any one else.

Wherefore he prays for leave to intervene in this suit as entitled above, being interested therein in an am't exceeding one thousand dollars. He joins plaintiff and adopts all his allegations, and in event said succession should be decided to be vacant, then petitioner prays to be appointed administrator thereof on giving bond and making oath according to law.

Petitioner specially offers the application of said Chas. R. Egelly & prays that he be cited, & for all necessary orders & decrees, & for general relief & costs.

W. G. WYLY,
Att'y for Petitioner.

Egelly Accepts Service of Intervention.

To save costs I acknowledge service of this petition & waive legal delays.

CHAS. R. EGELLY.

251 *Exception & Answer to Intervention.*

8th District Court.

BEN. E. HALL, Test. Ex'r,
vs.
CHAS. R. EGELLY. } No. 183.

The def't excepts to the intervention of Jno. A. Buckner filed herein; that said intervenor is without interest to intervene in this proceeding, and that if he has any rights (which is denied) that the same can be enforced only by an opposition to respondent's application for dative executorship of the succession of Mrs. Elenora E. Hall, dec'd, & not by this proceeding. Wherefore respondent prays the court to dismiss said intervention. But should the court overrule this exception, then respondent, reserving the benefit of the same and still insisting thereon, for answer thereto denies each and every allegation of said intervention, & prays that the same may be dismissed, and for costs & for general relief.

F. F. MONTGOMERY,
J. M. KENNEDY, *Att'ys.*

The above and foregoing answer is endorsed on the back thereof [in] the following words and figures, to wit:

"No. 183. Ben. E. Hall, test. ex'r, *vs.* C. R. Egelly. Exception & answer to intervention. Filed Oct. 14, '82. F. H. G. Taylor, d'y cl'k."

252 *Egelly Excepts & Answers B. E. Hall.*

8th District Court.

BEN. E. HALL, Ex'r, &c.,
vs.
CHAS. R. EGELLY. } No. 183.

Now comes the defendant, Chas. R. Egelly, and first excepts to plaintiff's suit; that no cause of action, right, or state of facts is disclosed or set up in his petition entitling him to an injunction and to the orders or relief sought; that this proceeding by injunction is an attempt to estop respondent from, and restrain him in the judi-

cial prosecution of, a legal right, to wit, his application to be appointed dative executor of the succession of Mrs. Elenora E. Hall, dec'd, and as such is violative of article 11 of the constitution of this State and not permitted by law; that if the administration of said succession is not vacant, or if plaintiff has a prior right to its administration, if unrepresented, then, in either case, it could and should be shown by opposition to said application in the probate proceedings, and all his alleged rights be amply protected thereby, and this attempt to evade and ignore the said probate jurisdiction of this court and its authority & laws of proceeding therein is illegal and contemptuous.

Wherefore respondent excepts and moves the court to dis-
253 solve the injunction and dismiss the suit. But should the court overrule the foregoing exception & motion, then respondent, reserving the benefit thereof and still insisting thereon, for answer *derirees* each and every allegation of plaintiff's petition, except what he may hereinafter admit.

Respondent shows that on the 17th day of December, 1880, certain creditors of the succession of Mrs. Elenora E. Hall obtained an order in due course of law from this hon. court compelling the plaintiff, who was there administering said succession as testamentary ex'r without any bond, to give bond in an amount set forth in the proceedings for said order within thirty days from the service of said order, according to art. 1677 of the revised civil code of this State; that this order was served on plaintiff on the same day; that he failed to furnish the required bond and security within the delay allowed, and was thus removed from said executorship by the operation of law, leaving the administration of said succession vacant, and that on the 28th day of Jan'y, 1881, respondent, being a creditor of said succession himself and also the agent and representative of other creditors for the collection of their debts to a large sum, the administration of said succession being still vacant & unrepresented, applied to be appointed dative executor thereof, and while
254 said application was pending was met with this injunction; all of which will appear by reference to the proceedings in said succession and the plaintiffs' petition.

Respondent specially denies all the allegations of plaintiff charging him with an intention to harass or annoy him, or with interfering or attempting to interfere with plaintiff in the administration of said succession, but shows that he acted in perfect good faith in applying for the administration of said succession, and was & is entitled thereto under the law.

Respondent shows that plaintiff had no right to resort to this injunction & this proceeding in opposition to said application, and that the same is an abuse of the equitable writ of injunction and a subterfuge to evade & escape the probate jurisdiction of this court, and that plaintiffs' rights (if any he has, which is denied) should be set up & adjudicated upon in a regular opposition to respondent's aforesaid application for dative executorship.

Considering the premises, respondent prays that the injunction may be dissolved & that the suit [be] dismissed, and that his right to

hereafter sue plaintiff and his surety on his injunction bond for damages may be reserved to him; prays also for general relief & costs.

F. F. MONTGOMERY.
J. M. KENNEDY, *Att'ys.*

255 The above and foregoing exception & answer is endorsed on the back thereof in the following words and figures, to wit:

"No. 183. Ben. E. Hall, test. ex'r, *vs.* Chas. R. Egelly. Exception & answer. Filed Oct. 14, '82. F. H. G. Taylor, d'y clerk."

Extract from Minutes of Oct. 14, '82.

SATURDAY, *Oct.* 14*th*, 1882.

Court met pursuant to adjournment.

Present: E. J. Delony, judge; S. D. Oliver, d'y sh'ff; F. H. G. Taylor, d'y cl'k.

BEN. E. HALL
vs. } No. 183.
C. R. EGELLY.

Exception & answer filed. Exception and answer to intervention filed.

256 *Injunction of B. E. Hall Dissolved.*

Extract from Minutes of Oct. 16th, 1882.

MONDAY, *Oct.* 16*th*, 1882.

Court met pursuant to adjournment.

Present: E. J. Delony, judge; A. G. Belden, d'y sh'ff, and F. H. G. Taylor, d'y cl'k.

BEN. E. HALL, Test. Ex'r,
vs. } No. 183.
CHARLES R. EGELLY.

Exception of def't in this case taken up for trial and tried on the face of the papers, and judgment rendered sustaining the exception, in so far as to dissolve the injunction, reserving to the defendant Egelly his right to sue upon the injunction bond for damages, and the petition referred to the application of C. R. Egelly for dative executorship of the succession of Mrs. Elenora E. Hall, and to stand as an opposition thereto. See decree.

Appeal.

On motion of counsel for the plaintiff in this case, defendant's counsel being present in open court and taking cognizance thereof, it was ordered that a suspensive and devolutive appeal be granted plaintiff from the interlocutory judgment rendered herein, upon his giving bond, with good and solvent security, for the suspensive

appeal in the sum of five hundred dollars, and for the devolutive appeal in the sum of fifty dollars, said appeal being returnable to the supreme court of the State of Louisiana sitting in the
257 city of New Orleans, La., on the second Monday of February next, 1883.

Judg't of Dist. Court on Injunction.

8th District Court, Parish of East Carroll, Louisiana.

BEN. E. HALL, Test. Ex'r,
vs.
CHAS. R. EGELLY. } No. 183.

This case being called for trial on the exception and motion to dissolve the injunction, and said exception and motion to dissolve being tried, and the law and evidence thereon being in favor of the exceptor and mover and against the defendant therein, said Ben. E. Hall, ex'r, it is, therefore, ordered, adjudged, and decreed that the exception and motion to dissolve be sustained, so far as to dissolve the injunction at cost of plaintiff. It is further ordered, adjudged, and decreed that the plaintiff's petition be ordered to stand on the docket of the court as an opposition to the application of defendant to be appointed dative executor of the succession of Mrs. Elenora E. Hall, dec'd, and that defendant's right to hereafter sue on the injunction bond for damages be reserved.

Done, read, and signed in open court this 16th day of Oct., A. D. 1882.

E. J. DELONY,
Judge, 8th Judicial Dist.

258 *Appeal Bond.*

STATE OF LOUISIANA, *Parish of East Carroll:*

8th District Court.

BEN. E. HALL, Ex'r
vs.
C. R. EGELLY. } No. 183.

Know all men by these presents that we, Ben. E. Hall, ex'r, as principal, and Jno. Buckner, as security, are held and firmly bound unto C. A. Hedrick, clerk of the 8th dist. court, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to the said Hedrick, clerk, or his successor in office, for the payment of which, well and truly to be made, we bind ourselves, our heirs, our executors, administrators and assigns, firmly by these presents, this the 18th day of Oct., A. D. 1882.

Whereas in the above-styled suit in which Ben. E. Hall, ex'r, is plaintiff and C. R. Egelly is defendant, the said — has taken a suspensive appeal.

Now, the condition of the above obligation is that if said Ben. E. Hall, ex'r, shall well and truly pay such judgment as may be rendered against him by the appellate court, then in this case this obligation to be void, otherwise to be in full force and virtue.

BEN. E. HALL, *Ex'r*,
By W. G. WYLY, *Att'y*,
JNO. A. BUCKNER.

[Written across the face in red ink :] Filed Oct. 18th, 1882. F. H. G. Taylor, d'y clerk.

259 *Decree of the Supreme Court.*

Supreme Court of the State of Louisiana.

CLERK'S OFFICE, NEW ORLEANS, *March 5th*, 1883.

BEN. E. HALL, Ex'r, *vs.* CHAS. R. EGELLY. } No. 8841.

Appealed from the 8th judicial district court for the parish of East Carroll.

Mr. Justice Manning delivered the opinion and decree of the court in the words and figures following, to wit:

This is an injunction restraining the defendant from proceeding further with his application to be appointed dative executor of the estate of which the plaintiff is testamentary executor.

Certain creditors of the testatrix obtained an order on December 17th, 1880, requiring the plaintiff to give bond with security for a sum exceeding by one-fourth the amounts of their debts within thirty days from the service of the order, and it was served on the same day. The bond and security was not given within that time.

On January 28th, 1881, the defendant, alleging that the succession was without a representative because of the plaintiff's failure to give security as ordered, and that he was a privileged creditor of the succession, applied for the appointment as dative executor, and his application was ordered to be published. Whereupon
260 the present injunction was obtained on Feb'y 7th following.

The injunction was improperly granted. Whether Egelly is such creditor as to entitle him to the appointment he seeks, and whether there is legal occasion for any appointment, are matters not now before us. He was asserting what he claims is a legal right by means of judicial proceedings, and it is an abuse of the writ of injunction to summarily prevent his prosecution of his suit thereby. Brott & Ceger, 28 Ann., 263.

The plaintiff has his remedy and the lower judge has wielded it into shape for him by ordering his petition to stand as an opposition to Eggelly's application, while at the same time the injunction was dissolved. He thus has preserved to him the right to contest

the defendant's pretensions in their entirety, and does not illegally interfere with the defendant in the prosecution of his own suit. Judgment affirmed.

A true copy.

T. McC. HYMAN, *Dy Clk,*

Petition for Removal of Case to U. S. Court.

8th Dist. Court, Parish of East Carroll.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm'r, *et al.*

To the hon. the judge of said court:

The plaintiffs respectfully show that they are citizens of the
261 State of Mississippi and that the defendant, Ben. E. Hall, is a citizen of the State of Kentucky, and the defendants, Jno. A. Buckner, E. J. Delony, and F. F. Montgomery, are citizens of the State of Louisiana; that the controversy is wholly between citizens of different States and can be fully tried and determined between them; that the amount in controversy exceeds, inclusive of interest, the sum or value of five hundred dollars, and that your petitioners desire to avail themselves of the provisions of the act of Congress, and to remove the suit into the circuit court of the United States for the western district of Louisiana. Wherefore they file herewith their petition and bond, conditioned according to law, and pray that they be accepted and no further proceedings had in the suit in this hon. court.

WADE R. YOUNG,
Of Counsel.

8th Dist. Court, Parish of East Carroll.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm'r, *et al.*

Know all men by these presents that we, Eunice H. King and Elizabeth King and James M. Norman, her husband, are held and firmly bound unto Ben. E. Hall, John A. Buckner, E. J. De-
262 lony, and F. F. Montgomery in the full sum of $250.00, for the payment of which well and truly to be made we bind ourselves, our heirs, and administrators, firmly by these presents; the said Eunice King and Elizabeth King and James M. Norman; her husband, as principals, and Jas. E. Ransdell, as their security.

The condition of the above obligation is such that whereas the above-bounden principals, as plaintiffs in the above-styled suit, have filed their petition and bond to remove the said suit into the U. S. circuit court for the western dist. of Louisiana: Now, therefore, if they shall file in said circuit — on the first day of its then next session a true copy of the record in said suit, and shall well and truly pay, or cause to be paid, all the costs thereof if said court shall hold that said suit was wrongfully or improperly removed thereto, then and

in that case this bond to be null and void; otherwise to remain of full force and effect.

EUNICE H. KING,
Per WADE R. YOUNG, *Att'y.*
ELIZABETH KING,
Per WADE R. YOUNG, *Att'y.*
JAMES M. NORMAN,
Per WADE R. YOUNG, *Att'y.*
JOS. E. RANSDELL.

263 The above and foregoing bond is endorsed on the back thereof in the following words and figures, to wit:

"No. 596. Heirs of W. D. King *vs.* B. E. Hall, adm'r, *et al.* Petition and bond for removal. Filed M'ch 17th, 1885. Wm. Rons, cl'k."

Extract from Minutes of Court of M'ch 19, '85.

THURSDAY, *M'ch 19th*, 1885.

Court met pursuant to adjournment.

Pres't: E. J. Delony, judge; M. S. Powell, sh'ff; Wm. Rons, clerk.

EUNICE H. KING *et al.*
vs.
BEN. E. HALL *et al.*
} No. 596.

In this case the hon. judge of this court, being a party defendant, recused himself and appointed the hon. judge of the 27th judicial district to try the same.

STATE OF LOUISIANA, *Parish of East Carroll:*

I, Wm. Rons, clerk of the eighth judicial district court, in and for the above-named parish and State, duly commissioned and qualified, do hereby certify that the above and foregoing two hundred and sixty-two pages (262) of writing contains a true, correct, and complete transcript of the petition of the heirs of W. D. King, dec'd, to wit,

Miss Eunice King, Mrs. Elizabeth J. L. Norman, and James M.
264 Norman *vs.* Ben. E. Hall, curator of succession of Wm. D. King, and J. A. Buckner, F. F. Montgomery, & E. J. Delony, and est. of Mrs. Elenora E. Hall, as sureties on said B. E. Hall's bond, as such curator; and the writs of citation & sh'ff's return therein; and that all the documents copied therein as part of pl'ffs' petition, with copies of minutes in each case so copied are true and correct copies of each document so copied and made part hereof—said pl'ffs' petition, and that the petition for and bond of removal as herein copied are true and correct, as also the minute of court of M'ch 19th 1885, as is also all minutes of court copied in each of the suits made a part of pl'ffs' petition as aforesaid; which said suit is known on the docket of the hereinbefore-mentioned court as "Heirs of W. D. King *vs.* Ben. E. Hall, adm., *et als.*," and numbered 596.

Witness my official signature and seal of office this 2nd day of April, A. D. 1885.

[L. S.]

WM. RONS,
Clerk 8th Dist. Court.

265 *Index to Record.*

Aivey, T. L., & Co. applies for sale of Mounds.
Buckner, Jas. A., citation to, in suit [of] King's Heirs *vs.* Buckner.
Buckner, J. A., is enjoined from applying for auditor's deed.
Buckner, J. A., applies for seizure and sale for Mounds.
Buckner, J. A., intervention of, opposing Egelly's application.
Bond of heirs of King removing suit to U. S. court.
Delony, E. J., is cited to answer pet. of King's heirs.
Davis, S. W., monition proceedings of.
Egelly, C. R., applies for administration of Mrs. E. E. Hall's est.
Egelly excepts [to] & answers Buckner's intervention.
Egelly excepts [to] & answers B. E. Hall's injunction.
Hall, B. E., ex'r, cited by King's heirs.
Hall, B. E., applies for administration of King's est.
Hall, B. E., receives letter of " " " "
Hall, B. E., oath of, as administrator " "
Hall, B. E., gives bond as " of " "
Hall, B. E., asks for authority to execute notes.
Hall, B. E., asks for authority to sell property.
Hall, B. E., answers rule of King's heirs for contempt.
Hall, B. E., asks for writ to sell property.
Hall, B. E., excepts to rule for contempt.
Hall, B. E., files provisional ac.
Hall, B. E., is ordered to sell property.
Hall, B. E., sells property to Davis, Hays & Defee.
Hall, B. E., asks that his provisional ac. be homologated.
Hall, B. E., files his " "
Hall. B. E., asks for writ to sell property.
266 Hall, B. E., asks that his final ac. be homologated.
Hall, B. E., files " " "
Hall, E. E., Mrs., mortgages Mounds to King's heirs.
Hall, E. E., Mrs., — protest of one note.
Hall, E. E., Mrs., mortgages Mounds to T. L. Aivey & Co.
Hays & Defee, monition proceedings of.
Hall, B. E., asks to be confirmed ex. of Mrs. E. E. Hall's est.
Hall, E. E., Mrs., last will.
Hall, B. E., is app't'd ex'r of Mrs. E. E. Hall's est.
Hall, Mrs. E. E, inventory of estate of.
Hall, Mrs. E. E, creditors of, ask that ex'r give bond.
Hall, B. E., enjoins Egelly from forcing his application.
Hall, B. E, injunction [of] is dissolved.
Injunction of B. E. Hall is dissolved.
Judgment in suit [of] Montgomery & Delony *vs.* Buckner *et al.*
Judgment in monition proceeding of S. W. Davis.
" " " " " Hays & Defee.
Judgment of supreme court dissolving Hall's injunction.
King's succession, inventory of.
King's heirs move that curator file ac.
" " " " Hall [be] punished for contempt.
King, Eunice, *et al.*, sells "Mounds" to E. E. Hall.

King's heirs — certain lands.
" " object to S. W. Davis' monition.
" " " " Hays & Defee's "
" " ask to transfer case to U. S. court.

267 Montgomery, F. F., is cited to answer W. D. King's heirs demand.

Montgomery & Delony enjoin Buckner from applying for auditor's deed.
" " file injunction bond.
" " enjoin Buckner & Aivey from selling Mounds.

Sheriff is ordered to sell property.
Sheriff sells Mounds to Buckner.
Sheriff makes deed to Buckner for Mounds.
Tax collector sells Mounds to Buckner.

268 *Entry in Order Book, Tuesday, April 21st, 1885.*

HEIRS W. D. KING
vs.
BEN. E. HALL, Adm'r, *et al.* } No. 94. In Equity.

On motion of Wade R. Young, Esq., solicitor for complainant, it is ordered that a decree *pro confesso* be entered against all parties defendant to the bill.

Entry in Order Book, Monday, April 27th, 1885.

HEIRS W. D. KING
vs.
BEN. E. HALL, Adm'r, *et al.* } No. 94. In Equity.

On motion of Messrs. Ludeling & Stillman, solicitors for defendants, it is ordered that the judgment *pro confesso* heretofore entered in this cause be set aside.

Answer of John A. Buckner, one of the defendants, filed.

Answer of Jno. A. Buckner.

HEIRS W. D. KING
vs.
BEN. E. HALL, Ex., *et al.* } No. 94.

The answer of John A. Buckner, one of the above-named defendants, to the bill of complaint of the above-named plaintiffs.

The defendant, now and at all times hereafter saving to himself all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, & imperfections in the said bill contained, for answer thereto,
269 or to so much thereof as defendant is advised it is material or necessary for him to make answer to, answering, saith:

That he admits that W. D. King died on the 25th of Sept'r, 1877, & that his succession owned one undivided half of the Mounts plantation, together with the movables & personal property thereon, &

also the wild lands on Joe's Bayou & Swan Lake, as stated in the inventory of said succession. He admits that Ben. E. Hill was appointed curator of the vacant succession of W. D. King & that he & the other defendants — sureties on said curator's bond. He admits the on or about the 19th day of Feb., 1878, the complainants sold to Miss Eleonora E. Hall one undivided half of said Mounds plantation & other property mentioned & described in the act of sale passed on the 19th day of Feb., 1878, between the plaintiffs & Miss Eleonora E. Hall, & which act is designated as Exhibit C in the petition or bill of complainants.

But defendant denies [that] the consideration of said sale was "five thousand dollars cash" & the promise or acceptance of Mrs. E. E. Hall to pay all the debts of W. D. King's estate. He avers that the consideration of the sale was (as it is stated in said Exhibit C) five thousand dollars, evidenced by two promissory notes—one for $2,000.00, due 1st January, 1880, & the other for $3,000.00, due 1st January, 1881, with eight p'r cent. p'r annum from ma-
270 turity—both signed by Mrs. E. E. Hall, made payable to her own order, & indorsed in blank & secured by a mortgage on the Mounds plantation & other real & immovable property described in said act.

He admits that by a separate clause in said act of sale Mrs. Hall assumed to pay the debts of the succession of W. D. King; but he denies that she gave any mortgage to secure this promise or assumpsit. He avers that said promise or assumpsit was only a personal obligation & not secured by any mortgage.

Defendant a-mits that Mrs. Eleonora E. Hall died in the latter part of the year 1879, & that an invertory of her succession was made on or about the 3d of March, 1880, & that Ben. E. Hall was confirmed testamentary executor of her will. He admits that by said will Ben. E. Hall was instituted her universal legatee; but he denies that said Hall ever took possession or seizin as heir or universal legatee. On the contrary, this defendant avers that her estate was insolvent, & that within sixty days from the time the said succession was opened T. L. Aivey & Co., mortgage creditor of Mrs. E. E. Hall for over $15,000.00, sued out executory process against her legal representatives, & caused to be seized the said Mounds plantation, together with all the movable property thereon and thereto attached, & the same was subsequently sold according to law
271 to satisfy said mortgage debt as well as the mortgage notes executed by Mrs. Eleonora E. Hall to plaintiff before mentioned; which notes had been sold & transferred to this defendant in due course of trade by the said complainant for a full and fair price & in good faith.

This defendant specially denies that there was any fraud or collusion between himself & Ben. E. Hall, or any one else, in regard to the sale of the Mounds plantation, or any other property, or in any other respects. He expressly denies that he ever induced or tried to induce any one at any time to bid at the sale or offering to sell the Mound plantation, with the view to defeat any honest bid or to prevent a sale at the highest price possible for said property.

Your respondent represents the consideration of said indebtedness of the estate of Mrs. E. E. Hall to T. L. Aivey & Co. was well known to the plaintiffs; that they knew that there was a conventional mortgage on the Mounds plantation & the property thereon & thereto attached, which had been executed by W. D. King & Mrs. E. E. Hall in favor of Graham, Block & Co. on the 28th of June, 1877, for $10,000.00, with interest, to secure a note executed by W. D. King & Mrs. E. E. Hall for said amount drawn to their own order & indorsed in blank, which was duly recorded in mortgage book P, 381, of the recorder's office of the parish of Carroll, which note is also to be found on page 121 of transcript of this case filed in this honorable court.

272 Defendant alleges that the plaintiffs knew that before they could sell their interest in the succession to Mrs. Hall the mortgage debt in favor of Graham, Block & Co. would have to be paid, & he alleges that these complainants, or their agent, went with Mrs. Eleonora E. Hall to T. L. Aivey & Co. & made arrangements to borrow the money to pay said indebtidness to Graham, Block & Co., & the money so advanced by T. L. Aivey & Co. to pay said mortgage debt of W. D. King & E. E. Hall constituted the greater part of the consideration of said mortgage of T. L. Aivey & Co. under the foreclosure whereof this defendant purchased said Mounds plantation in perfect good faith.

This defendant alleges that when T. L. Aivey & Co. agreed to lend the money on a mortgage on the Mounds plantation & moveables thereon, executed by Mrs. E. E. Hall alone, it was agreed between complainants, this defendant, & said T. L. Aivey & Co. that said mortgage should be recorded first & before the mortgage which Mrs. Hall gave for the price of the interest of complainants in the property of the succession of W. D. King, & he alleges that said agreement was carried out, & the mortgage of Mrs. Hall to T. L. Aivey & Co., executed on the 21st of Feb., 1878 (under which the sale & question was made), was recorded prior to the deed and mortgage of the 19th Feb., 1879, made by Mrs. Hall to complainants or their agent for the price of her purchase aforesaid.

273 Respondent avers that after T. L. Aivey & Co. had taken measures to foreclose their mortgage the complainants in this suit, having knowledge or notice of said proceedings, & having placed their two mortgage notes (aggregating $5,000.00, with interest before described) in the hands of E. D. Farrar, Esq., for collection, then sold & delivered said mortgage notes to your respondant for the full face value of the first note then past due & for the full face value of the last note for $2,000.00 then not yet due, less 8% discount. Your respondent paid the said price for said notes to the complainants in this cash, & secured said notes from them in full ownership & in good faith.

This defendant alleges that, as transferee or assignee of said notes, he had the legal & equitable right to collect them by foreclosure or otherwise, & that his venders, the complainants, ought not to be heard to complain of the foreclosure of said mortgage; that they are estopped from doing so.

Your respondent avers that under the facts already stated the respondent- *are* estopped from complaining of the foreclosure of the mortgage of T. L. Airey & Co.; that there is no equitable or legal grounds for their complaint against the foreclosure of the mortgage of T. L. Airey & Co., & that they are not entitled to any relief whatever.

Respondent admits that Ben. E. Hall, curator, filed provisional account of the succession of W. D. King about the time of said foreclosure of the mortgage, but he avers that he did so under
274 compulsion & against his protest. The complainants, under a rule against him, obtained an order of court commanding him to file the account, and then took a rule against him for contempt for failing to obey the order. Said Hall maintained, &, it is submitted, properly, that inasmuch as the heirs (who are of age) had sold all the property of the estate to Mrs. Hall, & she having assumed the payments of the debts of the succession, there was nothing further to administer; at least so far as said heirs were concerned.

Defendant avers that complainants have no right or interest either in the succession of W. D. King or in that of Mrs. Eleonora E. Hall for this, that they sold their interest and right in the succession of W. D. King to Eleonora E. Hall, as p'r Exhibit C, & they sold the only obligations or claims they had against the succession of Eleonora E. Hall to your respondent, as already stated, & the estate of W. D. King has been closed, all the creditors having been paid.

Defendant denies that said Hall, curator, acted illegally or wrongfully in causing the sale of the wild lands to pay debts of the succession, & he alleges that, by rules taken against him in court & other coercise measures of complainants & creditors, he was forced to do so. He avers that said Hall, curator, acted in good faith
275 & used only such measures as were in his power to comply with the orders of the court & close the succession.

Defendant admits the first sale of the wild lands was set aside, because the sale was not advertised for the period required by law, but he denies that said Hall, curator, or his securities are responsible therefor or on account thereof.

He avers the *the* proceedings were conducted by the legal adviser of said Hall & the officers whose duty it is by law to make such sales, & in good faith. He avers that the question of fraud or collusion in regard to the sales of said wild lands was raised in a controversy or suit in a monition proceeding in the district — in the parish of East Carroll between the purchasers at said sales & the complainants in this suit, & on appeal in circuit court it was finally decided that there was no fraud in said proceedings.

Respondent pleads said judgment & decree as *res judicata* in bar to so much of the present suit as raises the question of fraud or collusion in regard to said sales. Said judgment & decree is in the transcript of this suit, page 199, *et seq.*

Defendant admits that said wild lands were again sold to pay debts & that they were purchased by Isadore Newman for
276 $1,677.14 or thereabouts, but he alleges that there was no

fraud or collusion between him & said Hall, curator, or any one else to make this sale. He avers that the sale was made solely to pay debts, & it was in every respect an open and fair sale made under a proper decree of a court of competent jurisdiction & in accordance with the laws of the State of Louisiana, & that he believes the said Hall, curator, acted honestly & in good faith throughout; that the property sold for a fair price, & that he realized money to pay debts of the estate by said sale, which was applied to the payment of debts of the succession according to law.

He avers that all the debts of the estate have been paid, & that Hall, curator, having discharged his duties faithfully, filed his final account, which was duly notified to the attorney of absent heirs, & duly homologated by the court.

Defendant denies the allegation that Hall, curator, left the State permanently without having filed his final account. Two provisional accounts & his final account are copied into the transcript of this suit on pages —.

Defendant specially & expressly denies the charge of fraud or collusion made by complainants against him & Ben. E. Hall,
277 curator, in the matter of the sale of the said land, as well as the matter of the sale of the Mounds plantation, & in relation to all other matters in connection therewith.

Defendant denies that the Mounds plantation was worth $40,000.00 at the time it was adjudicated to him. He alleges that it was not worth more than $22,000.00 at the period when it was adjudicated to him.

He avers that said sale was a fair, open, & public sale under a decree of a court of competent jurisdiction, & this defendant's object in bidding was for the purpose of securing his rights as holder of the mortgage notes transferred to him as aforesaid by the said plaintiffs, & which notes — second in rank to the mortgage of T. L. Airey & Co. He avers that [he] paid complainants over five thousand dollars for said notes, & he was obliged to bid on said property a sufficient amount to pay the prior mortgage debts—say $17,745.36—in favor of T. L. Airey & Co., besides attorneys' fees and cost, in order to realize any thing on his own mortgage claim.

He avers that he bid $22,000.00 & paid $17,745.36 in full of the am't in said suit No. 7189, & the remainder $4,254.64 was applied to the payment of costs, including attorneys' fees in said *said*
278 suit, & in part payment of the mortgage notes held by your respondent, as is shown by the sheriff's act of sale on page — of transcript in this case. He avers that the property sold for less than the amount of the two mortgages & cost.

Defendant, for answer to that part of the bill which charges that the price of the sale of the interests of the complainants in the property described in the act of sale of 19th Feb., 1878, has not been paid, & prays for a rescission of the sale, says that the price, to wit, the notes given by Mrs. Hall to the complainants, were transferred to respondent & were paid in the manner already recited herein, & that all the property of the succession of W. D. King & all the

property of the succession of Eleonora E. Hall have been sold to pay the debts of the said W. D. King as aforesaid.

Respondent, for further answer, says that he is a purchaser, in good faith, for a valuable consideration as aforesaid, at a sale made under a decree of a competent court; that he is in possession, & he has been in possession in good faith, under a title perfect in form & translative of property, since the 21st day of June, 1884; that complainants have not tendered him the price he has paid for said property, to wit, $22,000.00, which sum has inured to the benefit of the estate & of said complainants if they have any interest
279 in said estate; &, under the laws of Louisiana, as well as in good conscience, it is a condition precident to the institution of an action [of] rescission that the price aforesaid shall be tendered the purchaser, which tender of the price has not been made by plaintiffs to your respondent.

Your respondent submits that the plaintiffs have not, in their bill, shown any case in equity or case entitling them to proceed against him in this honorable court, & he prays all such benefit as if he had demurred to said bill.

And this defendant denies all & all manner of unlawful combination & conspiracy wherewith he is, by the said —, charged, without this, that there is any other matter, cause, or thing in said complainant's said bill of complaint contained material or necessary for this defendant to make answer unto, & not herein & hereby well & sufficiently answered, confessed & traversed, & avoided or denied, is true, to [the] knowledge or belief of this defendant; all which matters & things this defendant is ready & willing to aver, maintain, & prove, as this honorable court shall direct, & humbly prays to be hence dismissed with his reasonable costs & charges, in this behalf most wrongfully sustained.

LUDELING & STILLMAN,
Solicitors for Defendant.
JNO. A. BUCKNER.

Endorsed: Filed April 27th, 1885. J. B. Beattie, d'y cl'k.

280 *Entry in Order-Book, Saturday, April 30th, 1885.*

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94. In Equity.

Replication to answer of Jno. A. Buckner filed.

281 *Replication to Answer of J. A. Buckner.*

U. S. Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et al.* } No. 94.

The replication of Mrs. Elizabeth Norman and her husband, James Norman, and Eunice King, plaintiffs, to the answer of Jno. A. Buckner, defendant.

These replicants, saving and re*sol*ving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say that they will aver and prove this said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these replicants, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed, and *decided*, tra*ns*versed or denied, is true; all which matters and things these replicants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in & by this said bill they have already prayed.

WADE R. YOUNG, *Solicitor.*

Endorsed: Filed April 30th, 1885. J. B. Beattie, d'y cl'k.

282 *Interrogatories to F. F. Montgomery and E. J. Delony.*

U. S. Circuit Court, Western Division of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et al.* } No. 94.

To the honorable the judges of the circuit court:

The complainants respectfully show that the testimony of F. F. Montgomery and of E. J. Delony, competent witnesses residing in the parish of East Carroll, State of Louisiana, is necessary and material to the trial of the cause; therefore, the premises considered, they pray for a commission, directed to any judge, justice of the peace, or notary public, or other competent person residing in the said parish of East Carroll, commanding him to take the testimony of said witnesses according to law, and to make due return thereof to this hon. court on or before the first Monday of October next, and hat defendants have due notice.

They propound the following interrogatories:

1st. Did you know W. D. King, who died in the parish of East Carroll, and State of Louisiana, in the year 187–?

2nd. Who administered the succession of said King after his death, and where was said succession opened and administered?

3rd. Was the said King, at the time of his death,
283 indebted to you, or either or both of you, in any sum? If yea, please state in what sum and for what causes, stating explicitly and in detail the origin, date, and amount of indebtedness.

4th. Did you know Mrs. Leonora Hall, wife of Ben. E. Hall, late of said parish?

5th. If yea, please state how the said Mrs. Leonora Hall was related to the defendant, Jno. A. Buckner.

6th. Please state, if you can, who generally advised and counselled the said Mrs. Leonora Hall in her business affairs.

7th. On what plantation did said Mrs. Leonora Hall reside and on what plantation did the said Jno. A. Buckner reside, and about what was the distance from one plantation to the other?

8th. Did you know Ben. E. Hall, husband of said Mrs. Leonora Hall? If yea, please state if he owned or possessed any property of his own, either in the State of Louisiana or elsewhere. Please state his ability or capacity for business. Please state, if you can, who administered the separate property of said Mrs. Leonora Hall, herself or her husband?

9th. Do you know the defendant, Jno. A. Buckner. If yea, how long have you known him? Has he, during the time you
284 have known him, owned and possessed any property in his own right; and, if so, how much? Please state his ability for business.

10th. Do you know anything of the transaction by which the heirs of King sold and co-veyed the undivided half of the Mounds plantation to Mrs. Leonora Hall? If yea, please state all that you know about said transaction. Please say, if you can, who acted for said Mrs. Leonora Hall, regulated the sale, and paid the price?

11th. Has the debt due by the succession of King to you or to the law firm of Montgomery & Delony been paid; and, if yea, by whom, and at what time was such payment made?

12th. Were any proceedings taken by you to compel payment; and, if yea, at what time were such proceedings instituted and against whom directed?

13th. Please state fully, explicitly, and in detail the terms of the agreement of compromise by which the dissolution of the injunction sued out by you against the sale of the Mounds plantation in the suit of Jno. A. Buckner and T. L. Aivey & Co. was obtained, how much money was paid to you, by whom was it paid, at what time, and for what consideration.

14th. Who was in possession of the Mounds plantation from the time of the institution of the suit and suing out of the in-
285 junction by the law firm of Montgomery & Delony to the final compromise of the suit and dissolution of the injunction? Who received the fruits, rents, & revenues of the property during that period? Did Jno. A. Buckner have any possession or control of the Mounds plantation during that period or cultivate it, or receive the fruits, rents, and revenues thereof; and, if yea, in what capacity?

15th. Who was the sheriff of the parish at the time of the seizure and where is he now? Who was the deputy who made the seizure & where is he now? Did said sheriff during said period take an actual possession of Mounds plantation and lease it or cultivate it or otherwise administer it?

16th. What were the rents of the Mounds plantation usually worth during this period? For how — would said plantation have rented at an annual rent? Would said plantation have rented for $6,000 p'r year? Could it have been rented for $5,000 p'r year; for $4,000 p'r year; for $3,000 p'r year?

17th. What was the value of said Mounds plantation at the time of the sale and adjudication to Jno. A. Buckner? Who was in possession & cultivating it at said time and how long had he been in possession?

285½ 18th. Who was the sheriff or deputy sheriff who made the first offering of the plantation and where was the sale made? Was it made on the premises or at the court-house? Where is such sheriff or deputy sheriff who made such offering?

19th. What was the highest price bid at the first offering and by whom was the bid made? What was the next highest price bid at the first offering, and by whom and for whose account was the bid made? Was the defendant, Jno. A. Buckner, present at said offering and did he bid for said property or induce any one else to bid; if yea, who was such person? Did such person pay the price of the bid; and, if not, why not? Did such bid have any effect on the sale of the property; and if so, what effect?

20th. Where is the defendant, Ben. E. Hall, now? Has he now, or had he at the time of the institution of this suit, any domicile or residence in the State of Louisiana, or any property, real or personal, or rights credits in said State?

21st. Do you know or can you set forth any other matter or anything which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause; if yea, set forth the same fully and at large in your answer.

WADE R. YOUNG, *Solicitor.*

286 The foregoing application and petition — considered and the law authorizing it, let a commission issue as prayed for, and let Chas. R. Egally, of Lake Providence, East Carroll parish, Louisiana, be appointed special commissioner to execute same.

Thus done and signed in — office this the 27th day of June, A. D. 1885.

[L. S.] J. B. BEATTIE, *D'y Clk.*

Filed June 27th, 1885.

J. B. BEATTIE, *D'y Clk.*

287 *Interrogatories to Eunice King and Mrs. Elizabeth King.*

U. S. Circuit Court, Western Dist. [of] Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm., *et al.*

To the honorable the judges of the circuit court:

The complainants respectfully show that the testimony of themselves, Eunice King, & Mrs. Elizabeth King, [and] wife of James M. Norman, competent witnesses, residing in the county of Copiah and State of Mississippi, is necessary and material to the trial of the cause; wherefore they pray for a commission directed to any judge, justice of the peace, or notary public, or other qualified person in the said county of Copiah and State of Mississippi, commanding him to take the testimony of said witnesses according to law and to make due return thereof to this honorable court on or before the first Monday of October next, A. D. 1885, and that defendants have due notice.

They propound the following interrogatories:

1st. Please state what relation you bore to the deceased, W. D. King.

2nd. Please state when and where he died.

3rd. Please state who administered the succession of said William D. King.

4th. Please state who were the next of kin & heirs-at-law of said King.

288 5th. Please state in what the property and effects of said King consisted.

6th. Please state if the said King owned any property jointly with any other person; and, if yea, who was such person and what property was so jointly owned.

7th. Please state what disposition was made of such joint property, or of the interest of said King therein.

8th. Please state who represented and acted for the widow of the interest of said King in said joint property and regulated the sale and paid the price.

9th. Please state what relation such person bore to the said widow.

10th. Please state if the purchase price of said interest of said King in said property has ever been paid, as agreed to be paid; and, if not, how much has been paid, and at what time, and how much is still unpaid.

11th. Please state if there [were] any debts due by said King at the time of his death; and, if yea, by whom said debts were undertaken to be paid.

12th. Please state if said debts have been paid as agreed and undertaken to be paid.

289 13th. Please state if any part of the property of said King was recovered by his heirs; and, if so, what part.

14th. Please state where such heirs were residing at the time of the death of said King, and where they reside now.

15th. Please state if said heirs or any one of them has resided in the State of Louisiana since the death of said King.

16th. Please state if said heirs have been compelled, since the death of said King, to pay out any moneys on account of property recovered by them; and, if yea, how much, at what time, and under what circumstances.

17th. Please state what disposition was made of the interest of said King in the crop growing on the joint property at the time of his death; by whom was the crop gathered, shipped, and sold; and what, if any, account was ever rendered of the proceeds.

18. Please state what disposition was made of the personal property of said King owned by him at the time of his death other than that sold and conveyed by his heirs, as appears in the deed to Mrs. Leonora Hall, wife of Ben. E. Hall; who recovered and disposed of said property, and what, if any, account was ever rendered of the same.

290 19th. Please state if you were, at any time, notified by Ben. E. Hall, adm. of said King, or by any attorney acting as counsel for absent heirs, that there were debts due and unpaid by the succession, and that unless moneys were furnished by you for the purpose of paying said debts a sale of the remaining property of said succession would be necessary.

20th. Please state if Mrs. Leonora Hall during her life, or her husband, Ben. E. Hall, as executor, or said John A. Buckner, ever notified you that said Leonora Hall, as widow, and her succession after her death, would be unable, from insolvency or other cause, to comply with the obligation of the contract of sale to said Leonora Hall by paying and satisfying such debts as might be due by said succession of King.

21st. Please state when you were first informed of the existence of such debts and of the failure or refusal of said Leonora Hall or of Ben. E. Hall, as her executor, to pay them.

22nd. Please state if said debts were paid, by whom, and at what time.

23rd. Please state what has become of the lands of the succession of King which were recovered by the heirs after making
291–292 provision for the payment of the debts of the succession.

24th. Please state if the heirs, after redeeming said lands from first sale, were notified by said Ben. E. Hall, as adm. of King or as executor of Leonora Hall, or by any attorney acting as counsel for absent heirs, or by said Jno. A. Buckner, or by any other person whatsoever, that after the payment made by them there were still other debts due and unpaid by the succession of King; and that unless such debts were paid or moneys furnished for such purpose that a sale of the property would be necessary, and how they were injured by the absence of such notice.

25th. Please state when and by whom the said heirs were first notified of the sale of the lands as recorded and the adjudication to Isadore Newman.

26th. Please state if any one as counsel for the absent heirs of King has ever written to or communicated with such heirs, and if

such heirs had ever been notified that there was such a person appointed by the court to look after their interest.

27th. Please state the value of the lands as recovered by the heirs of said King after providing for the payment of the debts of the succession and afterwards sold by Ben. E. Hall, adm., and
293 adjudicated to Isadore Newman.

28th. Please state why such lands were so valued by you, and what, if any, cause made it desirable to withhold them from market.

29th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WADE R. YOUNG, *Solicitor.*

Before me, the undersigned authority, personally came and appeared Wade R. Young; he, being by me duly sworn, deposes and says that he is the solicitor for the complainants; that said complainants are absent from the State of Louisiana, and that all the facts stated and allegations made in the foregoing application are true and correct.

WADE R. YOUNG.

Sworn to and subscribed before me this the 26th day of June, A. D. 1885.

[L. S.] LAZ. LINDSEY,
U. S. Commissioner, Natchez, Miss.

294 The foregoing application, petition, and affidavit considered and the law authorizing it, let a commission be issued as prayed for, and let James Sexton, Esq., of Copiah county, State of Mississippi, be appointed a special commissioner to execute the same.

This done & signed in office this the 27th day of June, A. D. 1885.

[L. S.] J. B. BEATTIE,
Deputy Clerk.

Filed June 27th, 1885.

J. B. BEATTIE, *D'y Clk.*

Notice to — Cross-Interrogatories and Return Thereon.

United States Circuit Court, Western District of Louisiana.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

To Messrs. Ludeling & Stillman, Monroe, La.:

Take notice that complainants have this day filed interrogatories to F. F. Montgomery & E. J. Delony, of East Carroll parish, Louisiana, and to Eunice King & Mrs. Elizabeth King, wife of Jas. M.

Normand, of Copiah county, Mississippi—a certified copy of said interrogatories accompanies this notice—and that you may, if you think proper, put such cross-interrogatories as are requisite and fit, and file the same in this court within ten days from the service hereof.

Clerk's office, Monroe, La., June 29th, 1885.

[L. S.] J. B. BEATTIE,
D'y Clerk.

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, adm., *et als.* Notice to — cross-interrogatories.

Marshal's Return.

Rec'd June 29th, 1885, & on same day served copy of notice & copies of interrogatories on Ludeling & Stillman, att'ys, by handing copies to Talbot Stillman in person.

J. T. STROTHER,
D'y U. S. Marshal.

Filed June 29th, 1885.

J. B. BEATTIE, *D'y Clk.*

295 *Order Enlarging Time for Taking Testimony.*

U. S. Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm., *et als.*

On order of Wade R. Young, solicitor for complainant-, and a suggestion of the insufficiency of the time for taking testimony, it is ordered that the time be enlarged for said purpose, as provided by rule 69, and that the parties, complainants and defendant-, be allowed until the first Monday of October next, A. D. 1885.

June 30th, 1885.

ALECK BOARMAN,
U. S. Judge.

Filed July 6th, 1885.

J. B. BEATTIE, *D'y Clk.*

296 *Interrogatories to A. G. Belden, J. A. Mobberly, J. M. Kennedy, & A. Blum.*

U. S. Circuit Court, West. Dist. Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm's., *et als.* } No. 94.

To the honorable the judges of the circuit court:

The complainants respectfully show that the testimony of Albert G. Belden, J. H. Mobberly, J. M. Kennedy, and A. Blum, competent witnesses residing in the parish of East Carroll, State of Louisiana, is necessary and material to the trial of the cause; wherefore they pray for a commission directed to Chas. R. Egelly, a U. S. commissioner residing in said parish of Carroll and said State of Louisiana,

commanding him to take the testimony of said witnesses according to law, and to make due return thereof to this hon. court on or before the first Monday of October next, and that defendants have due notice. They further show that it is necessary to propound new and additional interrogatories to the witnesses, F. F. Montgomery and E. J. Delony, and pray that the names of said witnesses be included, and for a commission and notice as above.

WADE R. YOUNG, *Solicitor.*

The foregoing petition considered and the law authorizing it, let commission issue as prayed for.

Thus done and signed in office this the 22nd day of Sept., A. D. 1885.

J. B. BEATTIE, *D'y Clk.*

297 They propound the following interrogatories to the witnesses, A. G. Belden, J. H. Mobberly, Abraham Blum, and J. M. Kennedy:

1st. Did you know W. D. King, who died in the parish of East Carroll in the year? In what year did said King die?

2nd. Who administered the succession of said King after his death, and where was said succession opened and administered?

3rd. Was the said King at the time of his death indebted to any person in any sum? If yea, please state to what persons, and in what sums, in as far as you know.

4th. Did you know Mrs. Leonora Hall, wife of Ben. E. Hall, late of said parish?

5th. If yea, please state how the said Mrs. Leonora Hall was related to the defendant, Jno. A. Buckner.

6th. Please state, if you can, who usually counselled and advised said Mrs. Leonora Hall in her business affairs.

7th. On what plantation did the said Mrs. Leonora Hall reside, and on what plantation did said Jno. A. Buckner reside, & what was the distance from one plantation to the other?

298 8th. Did you know Ben. E. Hall, husband of said Mrs. Leonora Hall? If yea, please state if he owned or possessed any property of his own, either in the State of Louisiana or elsewhere. Please state his ability and capacity for business. Please state, if you can, who administered the separate property of Mrs. Leonora Hall—herself or her husband. In what year and month did said Mrs. Leonora Hall die, and who succeeded to her property as executor or legatee?

9th. Do you know the defendant, Jno. A. Buckner? If yea, how long have you known him? Has he, during the time you have known him, owned and possessed property in his own name; and, if so, how much? Please state his ability and capacity for business.

10th. Do you know anything of the transaction by which the heirs of King sold the undivided half interest of the Mounds plantation to Mrs. Leonora Hall? If yea, please state all that you know about said transaction. Please state if you can who acted for said Mrs. Leonora Hall, regulated the sale, and paid the price.

11th. Have the debts due by the succession of King to the law firm of Montgomery & Delony ever peen paid; and, if so, by whom and at what time was said payment made?

299 12th. Were any proceedings taken by Montgomery & Delony to compel payment; and, if yea, at what time were such proceedings taken, and against whom directed? In what suits did the writs of seizure and sale issue against the Mounds plantation, and at what time? Who was the sheriff or deputy sheriff intrusted with the execution of the writs? Who controlled the suits and directed the proceedings? At whose suit were the executory proceedings opened, and how long was said injunction suit pending?

13th. Please state fully and in detail, as well as explicitly, the time of the agreement of compromise by which the dissolution of the injunction sued out by Montgomery & Delony against the sale of the Mounds plantation at the suit of Jno. A. Buckner & T. L. Aivey & Co. was obtained. How much money was paid to Montgomery & Delony; by whom was it paid; at what time and for what consideration?

14th Was any actual seizure made of the Mounds plantation in said suits and an actual possession taken thereof by the officer entrusted with the execution of the writs of seizure and sale at the suits of Jno. A. Buckner and T. L. Airey & Co.? Was any keeper appointed and placed in possession of said plantation? What instructions were given with regard to the execution of the writs, & by whom were they given?

300 15th. Who was in possession of the Mounds plantation at the time of the seizure or pretended seizure? Did such person remain in possession or was the possession taken from him? Did the sheriff entrusted with the execution of the writs take an actual possession of the plantation, or administer it, or lease it, or exercise any act of detention? Who was in possession of said plantation from the time of the institution of the suits to the final dismissal of the injunction suit of Montgomery & Delony? Who received the fruits, rents, & revenues of the property during that period? Did the defendant, Jno. A. Buckner, have any possession or control of the plantation during that period, or cultivate it, or receive the fruits, rents, & revenues thereof; and, if yea, in what capacity?

16th. What were the rents and revenues of the Mounds plantation reasonably worth during that period? How much would said place have rented for at an annual rent? Would said plantation have rented for $6,000 p'r, $5,000 p'r, $4,000 p'r, or $3,000 p'r year.

17th. What was the value of the Mounds plantation at the time of the sale and adjudication to Jno. A. Buckner? Who was in possession of said plantation and cultivating it at said time, and how long had he been in possession?

301 18th. Who was the sheriff or deputy sheriff who made the first offering of the said Mounds plantation at the suit of Jno. A. Buckner & T. L. Aivey & Co.? On what day and at what place was the property offered?

19th. What was the highest price bid at the first offering, and by

whom, and for whose account was the bid made? Was the defendant, Jno. A. Buckner, present at the sale, and did he bid for said property or induce any one else to bid therefor; if yea, who was such person? Did such person pay the price of the bid; and, if not, why not? Was such person a responsible bidder, and could he, reasonably, have been expected to pay the price? Did such bid have any effect on the sale of the property; and, if so, what effect? What was the next highest price bid, and by whom, and for whose account was the bid made? What prevented the adjudication of the property to such person? Was such property withdrawn from sale, & by whose direction? Was the person who made the next highest bid a person known to be responsible and able to comply with his bid? Please state his business and all that you know about him. Where did Ben. E. Hall live, and what was his business character and credit at that time?

20th. Where is the defendant, Ben. E. Hall, now? Has he now or had he at the time of the institution of this suit any domi-
302 cile or residence in the State of Louisiana, or any property, real or personal, or rights or credits in said State?

21st. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

WADE R. YOUNG, *Solicitor.*

They propound the following interrogatories to the witnesses, F. F. Montgomery and E. J. Delony, residing in the said parish of East Carroll:

1st. Please state exactly when (on what day of what month and year) the first payment was made to you on account of the indebtedness of W. D. King to your law firm.

2nd. Please state exactly by whom and to whom and in what way such payment was made. If necessary, please refer to your books or acc'ts or other memoranda.

3rd. Was it before or after the sale and adjudication of the property of the succession of King? Was it made by Ben. E.
303 Hall, adm. of the succession of King, in person or by some other? If by some other person, give his name. Was such payment made by said Hall, adm., from the funds realized by him from the proceeds of the sale of the property of the succession or from other funds received by him from some other source and at some other time? If you please, state from what person and from what source and at what time such funds were received.

4th. Where did Ben. E. Hall live and what was his business and what were his means of support from the time of the institution of the injunction and sale suits by Jno. A. Buckner and T. L. Aivey & Co. against the Mounds plantation and the suing out of the injunction by you until the dismissal of your injunction suit and the offering and sale and adjudication of the property to Jno. A. Buckner?

5th. Please state exactly when, on what day of what month and what year, an agreement of compromise was had between you, as plaintiffs, and Jno. A. Buckner and T. L. Aivey & Co., as defendants, to the injunction suit, in pursuance of which said suit was dismissed by you, the injunction dissolved, and the Mounds plantation permitted to be sold. Please state with what person or persons such agreement was made, their agents and representatives.

304 6th. Please state fully, explicitly, and in detail the terms of said agreement, what said parties did, or were to do, in consideration of the dismissal by you of the injunction suit.

7th. Was such agreement had before or after the sale and adjudication of the property of the succession of King to Isadore Newman?

8th. Please state exactly when, on what day of what month and year, the second payment was made to you on account of the indebtedness of the succession of King to your law firm. Please state exactly by whom and to whom and in what way such payment was made. If necessary, please refer to your notes or any other memoranda.

9th. Was such payment made before or after the dismissal of the injunction suit? Was it made before or after the sale and adjudication of the property of the succession of King to Isadore Newman? Was the payment made by Ben. E. Hall, administrator of the succession of King, in person or by some one else? If by some other person give his name. Was such payment made by Ben. E. Hall, adm. of the succession of King, from the funds realized by him from the proceeds of the sale of the property of the succession to Isadore Newman or from other funds received by him from some other source & at some other time? If yea, please state from what source and from what person and at what time such funds were paid.

305 10th. Was it not agreed between you, as plaintiffs, & Jno. A. Buckner and T. L. Aivey & Co., as defendants, to the injunction suits—them, or either of them, their agents or attorneys, that, as a consideration for the dismissal of said suit by you, the said sum should be paid to you by them or by some other person for them? Was not said sum paid to you before the dismissal of the injunction suit? Was not said sum paid to you before the sale and adjudication of the property of the succession of King to Isadore Newman? Is it not a fact that Jno. A. Buckner and his attorney had taken entire control of the executory proceedings of said Jno. A. Buckner and T. L. Aivey & Co. against the Mounds plantation, and that all the transactions had by you in order to secure the payment of the debt due to you by the succession of King were had with the said Jno. A. Buckner, his agents and attorneys? Is it not a fact that the sum paid to you in satisfaction and discharge of your debt was paid before the dismissal of the injunction suit or before the sale and adjudication of the property of the succession to Isadore Newman, and was paid to you by Jno. A. Buckner, his agents or attorneys, or was furnished by him to Ben. E. Hall or other persons to be paid to you?

11th. Were you or was either of you present at the first offering of the Mounds plantation at the injunction and sale suits of Jno. A. Buckner and T. L. Aivey & Co.?

306 12th. Who was the person who made the highest and last bid for the property? Was such person a responsible bidder and possessed of any character or credit to justify the sheriff in taking any notice of his bid? Did such person bid for himself or for another? Is it not a fact that such person was a mere tool and dependent of Jno. A. Buckner, without money, property, character, or credit, living on the property of said Jno. A. Buckner and on his bounty?

13th. Who was the person who made the next highest bid for the property, and for whose account did he make the bid? Please state the business of such person, his character and credit and the business character and credit of his principal for whom he made the bid.

14th. Is it not a fact that the bid of Ben. E. Hall was prompted by Jno. A. Buckner in order to prevent the adjudication of the property to S. L. Graham? Is it not a fact that the property was withdrawn from sale at the direction of Jno. A. Buckner, for the purpose of preventing the sale and adjudication to S. L. Graham?

15th. Is it not a fact that the said Ben. E. Hall, from the time of the death of his wife and throughout these transactions, was a person without property, business character, or credit, a mere tool of said Jno. A. Buckner, living on his property and dependent on his bounty?

307 16th. Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

WADE R YOUNG, *Solicitor.*

Cross-Interrogatories.

U. S. Circuit Court, Western District Louisiana.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm., *et al.*

The defendants reserve all legal objections to the testimony of A. G. Belden, J. A. Mobberly, J. M. Kennedy, A. Blum, F. F. Montgomery, & E. J. Delony, sought to be taken by commission in this cause. They propound the following cross-questions to them:

1st. If you say, in your examination-in-chief, that any one was put forward by Jno. A. Buckner to make a bogus or fictitious bid at the sale at public auction of the Mounds plantation, state if your testimony on that point is based on your personal knowledge or not.

2nd. State how you learned the fact & from whom.

3rd. If you answer any of the questions in chief in the affirmative, state your source of information or knowledge of the fact or facts.

LUDELING & STILLMAN, *Att'ys.*

Endorsed: Filed. Sept. 5th, 1885. J. B. Beattie, d'y cl'k.

308 *Notice to — Cross-Interrogatories.*

United States Circuit Court, Western District of Louisiana.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

To Messrs. Ludeling & Stillman, att'ys for def't, Monroe, La.:

Take notice that complainant hath this day filed interrogatories to Albert G. Belden, J. H. Mobberly, J. M. Kennedy, A. Blum, Field F. Montgomery, & E. J. Delony, residents of East Carroll parish, State of Louisiana—a certified copy of said interrogatories accompanies this notice—and that you may, if you think proper, put such cross-interrogatories as are requisite and fit and file the same in this court within ten days from the service hereof.

Clerk's office, Monroe, La., Sept. 4th, 1885.

[L. S.] J. B. BEATTIE,
D'y Clerk.

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, adm., *et als.* Notice to — cross-interrogatories.

Marshal's Return.

Rec'd the within notice and copy of interrogatories in office on the 4th day of September, 1885, and made personal service of same on Messrs. Ludeling & Stillman, att'ys for def't, by handing them to Judge Ludeling in the town of Monroe, on Sept. 5th, 1885.

W. H. HANNA,
D'y Marshal.

Filed Sept. 6th, 1885.

J. B. BEATTIE, *D'y Cl'k.*

309 *Demurrer of F. F. Montgomery.*

U. S. Circuit Court, West. Dist. Louisiana.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm., *et als.*

The demurrer of F. F. Montgomery to the bill of complaint of Eunice H. King & Mrs. Elizabeth King, wife of Thomas M. Norman, claiming to be heirs of W. D. King, complainants.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in said bill of complaint to be true, in such manner and form as therein & thereby set forth and alleged, doth demur thereto, and for cause of demurrer showeth that said complaints have not by their said bill made such a case as entitles them, in a court of equity, to any relief from or against this defendant touching the said matters contained in said bill. For this—

1st. That said complainants have not alleged any liquidation or settlement of the administration of said Ben. E. Hall, of the estate of

W. D. King, which settlement & liquidation is a condition precedent to the institution of any suits on the bond of said administration.

2nd. That said Ben. E. Hall, presented to the hon'l dist. court of East Carroll parish having probate jurisdiction his final
310 acct. of the administration of the succession of W. D. King, which acct. appears by the exhibits annexed to complainants' bill, and, being a part of the record, is now pending on the docket of said court, and this court is therefore without authority or jurisdiction to proceed in the matters presented by complainants' bill in so far as they effect this respondent.

Wherefore, and for divers other good causes of demurrer, appearing on said bill of complaint, this defendant doth demur to said bill and to all the matters and things contained, and humbly prays the judgement of this hon'l court, whether he shall be compelled to make any further or other answer to the said bill, and he prays to be hence dismissed with his reasonable costs in this behalf most respectfully sustained.

C. J. &. J. S. BOATNER,
Solicitors.

I certify that in my opinion the foregoing demurrer of F. F. Montgomery to the bill of complaint herein is well founded in law and proper to be filed in the above cause.

C. J. BOATNER,
Of Counsel.

Filed Sept. 28th, 1885.

J. B. BEATTIE, *D'y Clk.*
C. J. & J. S. BOATNER, *Att'ys.*

311 U. S. Circuit Court, West. Dist. Louisiana. In Equity.

W. D. King
vs. } No. 94.
Ben. E. Hall, Executor, and Jno. A. Buckner *et als.*

The defendants with respect represent that *the testimony of* Ben. E. Hall, a resident of Rock Island, Ill., is a material and competent witness in their behalf in the above-entitled case, and that it is necessary to take his testimony by commission. Wherefore they pray that an order for a commission be granted, & that a commission be issued to said witness' testimony, directed to any judge, justice of the peace, or notary public of the State of Illinois, or commissioner for the State of Louisiana, or U. S. commissioner in Illinois, or to special commissioner, and made returnable on or before the 26th day of October, 1885, according to law, & for all other necessary orders, &c., &c.

LUDELING & STILLMAN,
Solicitors & Att'ys.

The defendants being absent from the parish, T. Stillman, one of the att'ys for defendants in the above-entitled case, makes oath that he is informed and believes that said Ben. E. Hall is a material and

competent witness in behalf of defendants in the above-entitled case, and that the facts and allegations set forth in the foregoing petition are true to the best of his knowledge and belief.

312 TALBOT STILLMAN.

Sworn to and subscribed before me this 29th day of September, A. D. 1885.

J. M. BEATTIE, *D'y Cl'k*

Let a commission issue as prayed for to take the testimony of Ben. E. Hall, of Rock Island, Illinois, directed to any judge, justice of the peace, or notary public of the State of Illinois, or to a commissioner for the State of Louisiana, or to a U. S. commissioner in Illinois, or to special commissioner, and let the same be made returnable on or before the 26th day of October, 1885, according to law, and let the plaintiff be notified according to law.

Thus done and signed in office this the 29th day of September, A. D. 1885.

J. B. BEATTIE, *D'y Clk.*

U. S. Circuit Court, West. Dist. Louisiana.

H. D. KING *vs.* BEN. E. HALL, Ex't'r, *et als.*

Interrogatories to be propounded to Ben. E. Hall, a resident of Rock Island, Illinois, a material and competent witness in behalf of defendants in the above-entitled case.

1st Int. Did Jno. A. Buckner direct or control the actions
313 of your wife, his sister, in her business affairs, or not?

2nd. Who besides yourself was her adviser in her business affairs? Was Chas. Gallaher her business adviser or not? Who was Chas. Gallaher; what was his business and where did he reside?

3rd. Did John A. Buckner advise you or urge you, on the day of the sale, when Mr. Graham or some one bid $30,000 for the Mounds plantation, to not bid but to let the property sell or not?

4th. Did he represent to you that if the property sold for $30,000 there would be $6,000 or $7,000 coming to you as universal legatee or not? Did he advise you it would be better to let the property be bought by said bidder at that price or not?

5th. Did he not express regrets after the sale, on the day of sale, & subsequently that you had not let Mr. Graham buy at his bid or not?

6th. Did you bid at said sale for yourself or not? If you bid for yourself at said sale what was your object?

7th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this
314 cause? If yea, set forth the same fully and at large in your answer.

LUDELING & STILLMAN,
Solicitors, &c.

Filed Sept. 29th, 1885.

J. B. BEATTIE, *D'y. Clk.*

315 U. S. Circuit Court, West. Dist. Louisiana.

W. D. KING
vs.
BEN. E. HALL, Ex't'r, *et als.* } No. 94.

It is ordered, on application of counsel for defendant (Buckner), that the time for taking testimony in this case be extended to the 26th of October, A. D. 1885. The judges of the district & circuit courts being absent from the district & State, this order is granted by me as clerk thereof.

Monroe, La., Sept. 29th, 1885.

J. B. BEATTIE, *D'y Clk.*

Filed Sept. 29th, 1885.

J. B. BEATTIE, *D'y Clk.*

316 U. S. Circuit Court, West. Dist. Louisiana. In Equity.

W. D. KING
vs.
BEN. E. HALL, Ex't'r, *et als.* } No. 94.

Interrogatories to be propounded to W. B. Keene, Martin Compton, E. W. Constant, T. T. Taylor, & S. H. Mobberly, & Jno. A. Buckner, residents of East Carroll parish, State of Louisiana, material & competent witnesses, in behalf of the defendants in the above-entitled case.

1st. Do you or not know when Ben. E. Hall bid in the Mounds plantation at public sale, in East Carroll parish?

2nd. Do you or not know whether Jno. A. Buckner had induced said Hall to bid at said sale? Do you know whether or not said Buckner approved of Ben. E. Hall's bidding at said public sale?

3d. Where did said sale take place? Were you present? Did you or not hear Jno. A. Buckner say that said Ben. E. Hall was foolish or unwise in not permitting the person who bid against him to purchase the plantation or not? What did said Jno. A. Buckner say? When was this, and where? Was it in the evening of the day after the sale or not? Did you hear him make said remarks or similar remarks more than once or not?

4th. What was the actual cash value of the Mounds plantation on the day when it was sold to Jno. A. Buckner? Was or was
317 not $20,000 cash a fair and full price for the place on the day it was sold to Jno. A. Buckner?

Interrogatories to be Answered by Jno. A. Buckner.

1st. Where is Ben. E. Hall? What relation was he to you? Was he or not the husband of your sister? Was he the universal legatee of his wife or not?

2nd. Did you advise or encourage Ben. E. Hall to bid at the first offering for sale of the Mounds plantation? Did you advise or en-

courage him to bid at said sale with the intention or object of defeating a sale of the place to any other bidder?

3rd. Did you approve or disapprove of his bidding at said sale? Did you express your approval or disapproval to him or to others on the day of sale or afterwards?

4th. Did you procure Ben. E. Hall or any one else to bid at said sale with a fraudulent intent?

5th. Did your sister, Mrs. Hall, make you her business adviser or not? Who was her business adviser?

6th. What price did you bid at the sale of the Mounds plantation and when was that? Did you pay the price or not? How
318 was the price paid? Was the price paid applied to the extinguishment of debts against the estate of your sister, or the property bought or not?

7th. Was the price given for the property a fair and full price at the time of the sale?

8th. Was or was not your purchase made in good faith?

9th. What connection had you with the administration of the succession of your sister, Mrs. Hall?

10th. Did you direct or control the actions of the administrator of said succession or not?

11th. Did you direct or control the actions of your sister, Mrs. Hall, in her business affairs or not?

12th. When did you get possession or control of the plantation? Under what title? If at tax sale, state if you paid the price and what it was. Had you a mortgage on the place at the time or not?

13th. Was there a growing crop on the place at that time? What became of it? What became of the proceeds of the crops on that that place? Were they used to pay the debts of the merchants for advances to said place or not?

319 14th. If you had a mortgage on the Mounds plantation state how you acquired it, what the mortgage was for, & what you paid for it or the note secured by it. When did you acquire the notes? Did you buy them in good faith or not?

15th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to this the subject of your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

LUDELING & STILLMAN,
Solicitors & Att'ys.

U. States Circuit Court, West Dist. Louisiana. In Equity.

W. D. KING *vs.* BEN. E. HALL, Ex., *et als.*

The petition of the defendants respectfully represents that W. B. Keene, Martin Compton, E. W. Constant, T. T. Taylor, S. H. Mobberly, & Jno. A. Buckner, residents of East Carroll parish, La., are material & competent witnesses in their behalf, and they desire to take their testimony by commission; wherefore they pray for an order for a commission and that a commission be issued to take the

testimony of said witnesses, directed to any judge, justice of the peace, notary public, or United States commissioner in Louisiana and made returnable on or before the 26th day of October, 1885, according to law, and for all necessary orders, &c., &c.

LUDELING & STILLMAN,
Solicitors & Att'ys.

Let a commission issue, as prayed for, to take the testimony of the witnesses named in the above petition, directed to any judge, justice of peace, notary public of Louisiana, or United States commissioner in La., returnable on or before the 26th day of Oct., 1885, according to law, and that plaintiffs be notified hereof, &c., and let Chas. R. Egelly, of Lake Providence, La., be appointed special commissioner to execute this commission.

Thus done and signed in office this 29th day of Sept., A. D. 1885, at Monroe, La.

J B. BEATTIE, *D'y Clk.*

Filed Sept. 29th, 1885.

J. B. BEATTIE, *D'y Clk.*

U. S. Circuit Court, West. Dist. Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

To the honorable the judges of the circuit court:

The defendant, Jno. A. Buckner, respectfully shows that the testimony of Wm. G. Wyly, a competent witness, residing in the parish of East Carroll, Louisiana, is necessary and material to the trial of this cause; wherefore he prays for a commission directed to any judge, justice of the peace, [or] notary public of Louisiana or U. S. commissioner, or to Chas. R. Egelly, a U. S. commissioner, residing in said parish of East Carroll, Louisiana, requiring him to take the testimony of said witnesses according to law, and make due return thereof to this honorable court on or before the 26th day of October, 1885, and that complainants have due notice thereof.

1st. Int. Where do you live and what is your occupation? If you say you live in the parish of East Carroll, please state how long you have resided there. If you state you are a practicing attorney, please say how long you have been engaged in practicing law in that parish.

2nd. Are you acquainted with the parties to this suit?

3rd. Have you any knowledge in reference to the foreclosures of the mortgages against the Mounds plantation, styled T. L. Airey & Co. *vs.* Ben. E. Hall, executor, and Jno. A. Buckner *vs.* Ben. E. Hall, executor? If yea, please state who was the counsel employed in said suits to foreclose said mortgages in the district court of the parish of East Carroll.

4th. If you state you were the counsel employed to foreclose said

mortgages, will you state how many times and when said property was offered for sale, if it was offered for sale more than once? Will you be kind enough to explain why it was not adjudicated at the first offering, and also why the sale was postponed?

5th. Will you state whether there was any combination or collusion between parties, within your knowledge, to defeat the sale or prevent the adjudication at the first offering of the Mounds plantation at public auction by the sheriff?

6th. When was it that the property was next advertised for sale after the first sale was postponed or failed to be consummated, and why was not the property sold at the time it was again advertised to be sold? What prevented the sale from being made when the property was advertised a second time to be sold?

7th. Was the sale arrested by injunction; and, if so, who enjoined the sale, and what interest did the parties who enjoined the sale set up? Of whom were they creditors and to what amounts?
323 Was the validity of the mortgages sought to be foreclosed questioned?

8th. If you state that the parties enjoining said foreclosures were creditors of W. D. King's succession, will you state what became of their injunction suit. Was it tried and disposed of? State all the facts in reference to the dissolution of said injunction. Was the suit compromised or was the debt set up by the creditors of King's succession paid in full; if so, by whom and out of what funds was it paid, & when?

9th. Did Jno. A. Buckner pay said claim of the parties enjoining said foreclosures or make any compromise or agreement whatever with them, or did you, as counsel for T. L. Airey & Co., or as counsel for any one else, make any compromise or agreement in reference to said claims? And, if so, state fully the value of the transaction, if any.

10th. How were the funds raised to pay the two claims of Montgomery & Delony against the estate of W. D. King, if you state they held two claims and they were paid?

11th. Was any property sold by Ben. E. Hall, executor of the estate of W. D. King? If so, when & what amounts were realized at succession sales of W. D. King's estate, and what disposition was made of the funds arising from the sales thereof?

12th. Did Montgomery & Delony have two claims against the estate of W. D. King? If so, were they paid, by whom, and
324 how? State all you know about the matter.

13th. Did Jno. A. Buckner make any combination or agreement to pay the claims of Montgomery & Delony against the estate of W. D. King? Was there any contract between him and Montgomery & Delony in reference thereto?

14th. Did the Mounds plantation when ultimately sold under said foreclosure bring as high a price as was bid at the first offering? Did it sell for its full value when it was adjudicated to Jno. A. Buckner? Was there any combination or collusion when the property was adjudicated (within your knowledge) tending to defeat a fair and just sale of the property? Explain fully your knowl-

edge in reference to this sale of the Mounds plantation. If you state that the Mounds plantation sold for less than had been bid at the first offering, will you state the cause and explain fully why it was the property did not bring as much as was bid at the first offering?

15th. What was the attitude of Mr. Ben. E. Hall in reference to the sale of the Mounds plantation at the time it was first offered, at the time it was subsequently adjudicated, and throughout the whole proceedings to foreclose? Was he willing for the sale, or was he anxious to avert it? What were his ideas as far as you ascertained from him as to the value of the property and as to his willingness or unwillingness for the sale under said foreclosures? Was he in collusion with Jno. A. Buckner or any one else to obtain the sale under said foreclosures? State what you know about the
325 matter and the position of Ben. E. Hall in reference to the sale.

16th. Do you know or can you set forth any other matter or thing which may be of advantage or benefit to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

LUDELING & STILLMAN,
Solicitors & Att'ys.

Order.

The foregoing petition considered, and the law authorizing it, let a commission issue as prayed for.

Thus done and signed in office at Monroe, La., this 3rd day of Oct., A. D. 1885.

J. B. BEATTIE, *D'y Clk.*

Filed Oct. 3rd, 1885.

J. B. BEATTIE, *D'y Clk.*

326 U. S. Circuit Court, West. Dist. Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

To the honorable the judges of the circuit court:

The defendant, Jno. A. Buckner, respectfully shows that the testimony of himself, a competent witness, residing in the parish of East Carroll, Louisiana, is necessary and material to the trial of this cause, wherefore he prays for a commission, directed to any judge, justice of the peace, or notary public, or U. S. commissioner, or Chas. R. Egelly, a U. S. commissioner, residing in said parish of East Carroll, Louisiana, requiring him to take testimony of said witness according to law and make due return thereof to this honorable court on or before the 26th day of October, 1885, and that complainants have due notice thereof.

Int. 1st. Where do you live, and what is your occupation?

2nd. Are you acquainted with the parties to this suit?

3rd. Have you any knowledge in reference to the foreclosures of the mortgages against the Mounds plantation in suits styled "T. L. Aivey & Co. *vs.* Ben. E. Hall, executor," and John A. Buckner *vs.* Ben. E. Hall, executor, on the docket of the district court, parish of East Carroll? If yea, state whether you were present when said plantation was sold; and also, whether or not you were present at the first time it was offered for sale by the sheriff; if yea, state what you know about said foreclosure proceedings and the circumstances thereof.

327 Int. 4th. When and how many times was the Mounds plantation offered for sale under said foreclosure or foreclosures?

5th. Was there any combination or collusion between parties within your knowledge to defeat the sale or prevent the adjudication at the first offering of the Mounds plantation at public auction by the sheriff?

6th. When was the property next advertised for sale, and did the sale occur under the second advertisement? If you answer nay, state what prevented the sale.

7th. Was the sale arrested by injunction; and if so, by whom, what interest was set up, and for what cause the injunction issued?

8th. If you state that Montgomery & Delony took out the injunction as creditors of the succession of W. D. King, please state if you made any combination or agreement in person or through any one else with Montgomery & Delony, or any one else, whereby you contracted to obtain the dismissal of their injunction in order to proceed with said foreclosures. State all you know in reference to said injunction, and whether or not you promised to pay any sum of money, or offered any inducement, with a view to obtain a compromise of their claim and a dismissal of their injunction. Was there any contract or agreement between you and Montgomery & Delony obligating you in any manner, morally or legally, to pay Montgomery & Delony? Had you anything to do with the payment

328 of their debt? State fully what you know about that transaction?

9th. What was the attitude of Ben. E. Hall in reference to said foreclosures? Was he favorable or unfavorable to the proceedings?

10th. When the property was ultimately sold under said foreclosures, was it a fair, open, and public sale? Who became the purchaser and at what price? Was the price equal to the full value of the property at the time?

11th. Was the price equal to the amount bid at the first offering? If nay, what was the cause of the property selling for less than had been bid at a previous offering? Had there been any depreciation of property? If yea, state fully the cause of the depreciation.

12th. What was your motive or object, so far as you were interested in the foreclosure? Had you any speculation in view? Did you regard the property as worth more than was involved in said foreclosure proceedings?

13th. Have you any knowledge in reference to the purchase by

Mrs. Leonora E. Hall of the undivided half of the Mounds plantation from the complainants, the heirs of W. D. King? Did you have any hand in that transaction? State fully all you know about it.

14th. By whom was Mrs. Leonora E. Hall guided & controlled, if by any one, in the management of her business?

15th. Had you a controlling influence over her business
329 matters, or did you attempt to supervise the administration of her business in any way?

16th. Was Ben. E. Hall guided and influenced by any one in his business matters or did he act for himself in such matters? Did he have a good business education and a good mind?

17th. Did you exercise a controlling influence over Mr. Hall, or in any manner did you assume to transact his business?

18th. Do you know whether or not Ben. E. Hall was faithful in his trust as administrator of the succession of King? Did he attempt to make money at the expense of the succession? Did his administration of said succession in any manner enrich him or operate to [his] pecuniary gain?

19th. From whom did you purchase the mortgage note upon which was based the foreclosure styled Jno. A. Buckner *vs.* Ben. E. Hall, executor, on the docket of the 8th district court, parish of East Carroll?

20th. Did you buy the note from the complainants? If yea, what did you pay for the notes? State fully all you know about the transaction. When & where did it occur?

21st. Was there any combination or scheme between you and Ben. E. Hall or any one else whereby you were to acquire the ownership of the Mounds plantation at a small price, and thereby defeat the enforcement of any obligation that the complainants might have to compel the succession of Mrs. Leonora Hall to pay
330 the debts of estate of King, as alleged by complainants in this suit? Did you have any such object or purpose in view? State all you know about it.

22nd. Were you present and did you assist at the sale whereby Mrs. Leonora E. Hall acquired from complainants the undivided half of the Mounds plantation, as set up in the bill of complainants?

23rd. Do you know, or can you set forth, any other matter or thing which may be of advantage or benefit to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answers.

LUDELING & STILLMAN, *Solicitors.*

Order.

The foregoing petition considered and the law authorizing it, let a commission issue as prayed for.

Thus done and signed in office, at Monroe, La., this 3rd day of October, A. D. 1885.

J. B. BEATTIE, *D'y Cl'k.*

Filed October 3rd, 1885.

J. B. BEATTIE, *D'y Cl'k.*

331 United States Circuit Court, Western District of Louisiana.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

To Wade R. Young, Esq., solicitor for complainants:

Take notice that defendant- hath filed interrogatories to Wm. G. Wyly and Jno. A. Buckner, residents of East Carroll parish, Louisiana, *this notice*, and that you may, if you think proper, put such cross-interrogatories as are requisite and fit, and file the same in this court within 10 days from the service hereof.

Clerk's office, Monroe, La., Oct. 3rd 1885.

[L. S.] J. B. BEATTIE, *D'y Cl'k.*

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, adm., *et als.* Notice to — cross-interrogatories.

Rec'd in office Oct. 6th, 1885, & on the same day, month, & year I served a copy of the within notice to — cross-interrogatories on W. R. Young, solicitor of complainants, in the city of Monroe, La.

P. B. WEAKS,
D'y U. S. Marshal.

Filed Oct. 6th, 1885.

J. B. BEATTIE, *D'y Cl'k.*

332 *Agreement of Counsel.*

U. S. Circuit Court, West Dist. Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

In this cause service of interrogatories propounded to defendants and witnesses is accepted and the legal delays are waived, and it is consented that the commission be issued at once, to be executed, with mention of all the legal notices of complainant-, to have, to suppress, or to object to the evidence on the trial, except as herein stipulated.

WADE R. YOUNG, *Solicitor.*

Filed Oct. 7th, 1885.

J. B. BEATTIE, *D'y Cl'k.*

333 *Extract of Minutes. Saturday, Oct. 10th, 1885.*

Court met pursuant to adjournment.
Present: His honor Aleck Boarman, district judge, presiding.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94. In Equity.

On motion of Messrs. Ludeling & Stillman, solicitors for defendants, it is ordered that the time for taking testimony in this cause be extended until Monday, Oct. 26th, A. D. 1885.

Extract of Minutes, Tuesday, Oct. 13th, 1885.

Court met pursuant to adjournment.
Present: His honor Aleck Boarman, dist. judge, presiding.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94. In Equity.

On motion of Wade R. Young, solicitor for complainants, and on showing to the court that a *pro confesso* was taken with all the defendants at the last term, and an answer filed by one of said defendants, and the cause put at issue by a general replication, and the time for taking testimony enlarged by an order of court to the first day of this term, it is ordered that the cause be set down for a final hearing on the 26th day of October; that the testimony in
334 full be published and that all parties be allowed until that day to complete this evidence.

Extract of Minutes, Thursday, Oct. 15th, 1885.

Court met pursuant to adjournment.
Present: His honor Aleck Boarman, dist. judge, presiding.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94. In Equity.

On motion of Wade R. Young, Esq., solicitor for complainants, it is ordered that this cause be set down for hearing on the minutes on Tuesday, Oct. 17th, 1885.

Extract of Minutes, Monday, Oct. 26th, 1885.

Court met pursuant to adjournment.
Present: His honor Aleck Boarman, dist. judge, presiding.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et als.* } No. 94. In Equity.

On motion of Wade R. Young, Esq., solicitor for complainants, is is ordered that the affidavit of Edgar D. Farrar, a witness on behalf

of complainant-, be filed & published. It is further ordered
335 that the testimony of Chas. R. Egelly, a witness for complainants, be taken this day, Oct. 26th, 1885, before J. B. Beattie, deputy clerk, specially appointed an examiner of this case for said purpose, on oral interrogatories and cross-interrogatories to be propounded by the parties or their representative solicitors.

Answer of F. F. Montgomery.

U. S. Circuit Court, West. Dist. Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm., *et als.*

The answer of F. F. Montgomery, one of the defendants, to the bill of complaint of Eunice H. King and Mrs. Elizabeth King, wife of James M. Norman, claiming to be heirs-at-law of W. D. King.

This defendant, now and at all times hereafter reserving all manner of benefit and advantage to himself of exception to the many errors & insufficiencies in said bill contained, for answer thereto, or unto so much thereof as this defendant is advised is material for him to make answer, answers and says—

That he is not advised whether complainants are sole heirs of W. D. King, deceased, & therefore does not admit the same to be
336 true. He admits that said W. D. King died in the parish of East Carroll, as alleged, and that Ben. E. Hall was duly appointed and qualified as administrator of his estate. He admits that Jno. A. Buckner, E. J. Delony, & respondent were the sureties of said Ben. E. Hall on his official bond as adm. of said estate. He admits that complainants, after the appointment of said Hall as adm., sold and conveyed to Mrs. Leonora Hall, wife of said Ben. C. Hall, the interest owned by said W. D. King in the Mounds plantation, together with an interest in the stock of goods, merchandise, notes, judgments, accounts, &c., as set forth and minutely described in the act of sale from said complainants to Mrs. L. E. Hall, which is made a part of complainants' bill. He admits that Mrs. Leonora E. Hall executed, as the purchase price of said property, her notes of hand for the sum of five thousand dollars, which were secured by a lien upon the property sold, and, in addition thereto, personally bound herself to pay the debts of the estate of W. D. King. He admits that on the death of Mrs. L. E. Hall the said Ben. E. Hall qualified as executor of her last will and testament, and as such received seizin of her estate, of which the Mounds plantation constituted a large proportion. He admits that said Mounds plantation was sold under executory proceedings instituted by the mortgage creditors of her estate and
337 was adjudicated to Jno. A. Buckner, as alleged. But he denies that the said Ben. E. Hall, in his capacity as adm. of the estate of W. D. King, was any party thereto, or that the same was in any way involved in or connected at that time with the estate of said King. He denies that said Ben. E. Hall has left the State of Louisiana without having rendered any account of his administra-

tion of said estate, but avers, on the contrary, that said Hall has rendered two provisional and a final account of his administration of said succession to the court from which he received his appointment, the correctness of which has never been questioned or denied, and which is now pending on the docket of said court, and which, this defendant avers, is a full & correct account of his administration. He avers that the property sold by Ben. E. Hall as adm., which complainants claim to have reserved from the sale to Mrs. Leonora Hall, were sold under an order of the district court of East Carroll parish, rendered on the 16th day of Nov., 1883, requiring that they be sold for the purpose of paying the debts of the said estate; that the writ of sale was directed to and executed by the sheriff of the parish of East Carroll, and the property legally sold for the best price attainable; that on the 15th day of May, 1880, the
338 complainants herein filed an application in the district court of said parish demanding that said Hall file an account of his administration, in answer to which the said adm. presented, about the 27th of December of same year, his account, showing payment of debts by him to an amount exceeding total receipts from the succession of six hundred & ninety-two $\frac{8}{100}$ dollars.

That on the 31st of December, 1880, an order of said court was rendered directing the sale of the property referred to therein as wild and unproductive, and the same was sold by the sheriff of said parish on the 5th day of February, 1881.

That this sale was cancelled by judgement of court for want of sufficient advertisement, and the property reverted to the succession; that on the 16th day of November, 1883, the said district court of East Carroll parish again ordered the sale of the property, and it was sold by the sheriff as aforesaid, and its proceeds applied by Mrs. Hall to the payment of the debts of the estate, as shown by his several accounts on file with accompanying vouchers.

Respondent avers that under the laws of Louisiana he cannot be sued as surety on said bond of said Ben. E. Hall as adm. until the necessary steps have been taken to force payment against the principal, and he avers that no such steps have been taken, nor have complainants alleged or shown any legal excuse for their
339 failure to do so; on the contrary, it appears from the record that said Hall has long since presented accounts of his administration, upon which said complainants by opposition could have obtained contradictorily with him a settlement of said rights as they may have.

Respondent specially denies that any obligation against him can arise in favor of complainants by reason of the transactions between the complainants and Mrs. Leonora Hall, or by reason of the failure of said Mrs. Hall to pay in full the purchase price of the property which they sold her, or by reason of any act of said Ben. E. Hall, as executor of the will of the said Mrs. Leonora Hall, for the reason that said acts were in no way connected with or a part of his duties as adm of the estate of W. D. King; that the obligation of the said Mrs. L. E. Hall to pay the debts of the estate was purely personal to said heirs, & *if* the failure to comply with the same she

became thereby responsible to said complainants, but she assumed no obligation to the estate of W. D. King or to Ben. E. Hall as its legal representative; that if the said Ben. E. Hall by any failure to properly discharge the duties of his office as executor of the will of Mrs. L. E. Hall caused damage to the creditors or heirs of said estate, no liability therefore can arise against the sureties of his official bond as adm. of the estate of W. D. King

340 He expressly denies the value of the lands as alleged by complainants, and avers that the same was sold for a fair price. And this defendant denies all unlawful combination in said bill charged, without that any other matter or thing material for them to make answer to & not herein sufficiently answered, avoided, or denied is true to the knowledge or belief of this defendant; all of which matters and things this defendant is ready to aver and prove as this court shall direct, and pray to be hence dismissed with his costs and charges on this behalf most wrongfully sustained.

C. J. & J. S. BOATNER, *Solicitors.*

341 EXHIBIT IV.

Affidavit of Edgar D. Farrar.

U. S. Circuit Court, West. Dist. Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm., *et als.*

Before me, the undersigned authority, a commissioner of the circuit court of the United States for the southern district of Mississippi, duly appointed & qualified, personally came and appeared Edgar D. Farrar, of the county of Warren and the State of Mississippi, as a witness on behalf of the complainant in the above-entitled cause, who, being by me duly sworn, deposes and says: My name is Edgar D. Farrar. I reside in the city of Vicksburg, county of Warren, State of Mississippi; am an attorney-at-law and practice my profession [in] courts of the State of Louisiana. At some time in the year 1877 I was employed for the complainant- in this suit as heirs of W. D. King, deceased, to look after their interest in the property of the succession, and continued to act as their attorney until I turned the business over to their present solicitor, Wade R. Young, some time in the year 1884. I have no personal knowledge of the transaction between the complainant- and Mrs. Leonora Hall by which they conveyed the undivided half of the Mounds plantation to her other than what is derived from reading act of sale and conveyance, as I was not present and did not act for them in that transaction. I understood that all the debts of the succession of W. D. King had been assigned

342–3 and undertaken to be paid by Mrs. Leonora Hall as a part of the purchase price & that no debts other than such as assumed were due by said succession. The adm. gave me no notice that Mrs. Leonora Hall or he, as legatee or executor of his dec'd wife, was unable or unwilling to pay such debts, and that is was necessary for the heirs to advance money for the purpose of paying such

debts. The first order of sale was attended by the administrator *ex parte*, and in so far as I know without notice to the heirs, certainly without notice to me. Some correspondence passed [between] myself and Mr. J. M. Kennedy, who, I think, had been originally appointed counsel for absent heirs, and the copy of the letter from him to me, annexed to this affidavit and marked Exhibit A, dated Lake Providence, La., Mar. 8th, 1881, is, as nearly as I can recollect, a true copy of the original, which was received and read by me and sent to Mr. James M. Norman, husband of one of the complainants. Such a letter was received by me and made it necessary for me to oppose the monitions sued by the purchases, as the records should show. The sales were set aside on the payment by the heirs of a sum of money to the purchasers to reimburse them. My connection with the business afterwards consisted in the endeavor to force the administrator to render a final account and close the succession, as the records will show.

I know nothing of the last & final sale of the property of the
344 succession, as the order was obtained *ex parte* and I think without notice to the heirs, and certainly without notice to me. I have been informed that such a sale was made, but my knowledge is from hearsay. I have stated as fully as I can recollection, and as if specially examined and cross-examined thereon, all that I know about the matters and things in controversy in this suit. What I know of my own knowledge I have so stated, and what I have learned from others I have stated as hearsay.

E. D. FARRAR.

Sworn to and subscribed before me, at my office in the city of Vicksburg, county of Warren, and State of Mississippi, this the 24th day of Oct., A. D. 1885.

[L. S.] LAZ. LINDSEY,
U. S. Commissioner.

Com. fee, $2.00; paid.

345 EXHIBIT A. Laz. Lindsey, U. S. Com. Oct. 24th, 1885.

Exhibit Annexed to Affidavit of E. D. Farrar.

LAKE PROVIDENCE, LA., *Mar. 8th*, 1881.

Judge E. D. Farrar, Vicksburg, Miss.

DEAR SIR: Your letter of the 1st inst., enclosing that of Mr. J. M. Norman of the 22nd of Feb. ult., reached me to-day. I reached home Saturday night sick, and am yet in bed, unable to answer your letter directly; will do so through an amanuensis. I regret that I cannot oppose the homologations of the monitions in King succession, because, as I told you in New Orleans, I had sued them out. In regard to other matters, Mr. Norman made no provision for fees, and my former experience with him has taught me that this must first be secured beyond doubt. I am quite sick, and will not be able to attend to any business at all this week; so I expect that it will be necessary for you to come up.

Resp't., J. M. KENNEDY. [L. S.]

E. & A. to Mrs. Elizabeth Norman's answer to the 29th interrogatory filed Aug. 29th, 1885.

J. S. SEXTON,
Commissioner.

346 *Extract of Minutes, Tuesday, October 27th, 1885.*

Court met pursuant to adjournment.
Present: His hon. Aleck Boarman, district judge, presiding.

HEIRS [OF] W. D. KING
vs.
BEN. E. HALL, Adm'r, *et al.* } No. 94. In Equity.

Motion to suppress testimony filed on behalf of defendants, John A. Buckner and F. F. Montgomery.

The demurrer filed on behalf of F. F. Montgomery referred to the merits.

347 *Motion to Suppress Testimony.*

Fifth Circuit Court, West. Dist. Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL *et als.*

Now comes the defendant-, J. A. Buckner [and] F. F. Montgomery, by their solicitor, saving and reserving unto themselves now and at all times the benefit of all & all manner of exceptions and objections to the proof, depositions, & documents adduced & offered herein by said complainant, saving and making all and all manner of exceptions and objections to the questions propounded to said witnesses and to the answers of said witnesses thereto, as well to such as are apparent on the face of the said depositions as to such objections and exceptions as were made, taken, and noted by the examiner, & on all such depositions as were returned by the examiner or commissioners, and moves that said testimony or evidence, or so much thereof as is obnoxious to the objections made, be suppressed for the following reasons:

1st. The testimony of E. D. Farrar, filed on the 26th day of October in open court, is *ex parte*, and there is no time to cross-examine the witness, as the case has been set down for trial for the 27th day of October, 1885.

2nd. That there is no proof that the person before whom the affidavit purports to have been made is a U. S. commissioner in the State of Mississippi.

348 3rd. The opinions, impressions, and understanding of the witnesses Farrar, Delony, Montgomery, Blum, & Belden, & of Eunice H. King & Mrs. E. King, wife of J. M. Norman, are not legal evidence.

4th. Their testimony as to what they have heard or learned from others is hearsay & illegal, and their testimony as to what the records show is not the best evidence.

5th. The copy of letter referred to by E. D. Farrar in his affidavit is not the best evidence; the original should be produced.

LUDELING & STILLMAN, *Solicitors.*
C. J. & J. S. BOATNER, *Solicitors.*

Filed Oct. 27th, 1885.

J. B. BEATTIE, *D'y Cl'k.*

349 As per assignment, this case came on to be heard. After *after* the introduction of the testimony and cause partly argued, the same was continued until to-morrow, Wednesday, Oct. 28th, for further argument.

On motion of Wade R. Young, solicitor for complainants, it is ordered that the cause be reopened and the deposition of Chas. R. Egelly, taken before J. B. Beattie, special examiner, in pursuance of the order of this court, be offered and filed in evidence.

Complainants' Note of Evidence.

Counsel for complainants offered in evidence the following exhibits:

1st. Bill and exhibits annexed thereto, together with the transcript of the record from the State court of — parish, filed and marked Exhibit I.

2nd. Depositions of J. M. Kennedy, J. H. Moberly, Albert G. Belden, A. Blum, Field F. Montgomery, and E. J. Delony filed and marked Exhibit II.

3d. Depositions of complainants, Mrs. Elizabeth King, wife of James M. Norman, and Miss Eunice King, together with the exhibits annexed thereto, filed and marked Exhibit III.

4th. Affidavit of Edgar D. Farrar, subject to the motions
350 to suppress testimony, filed and marked Exhibit IV.

5th. Testimony of Chas. *Chas.* R. Egelly, taken before J. B. Beattie, special examiner, filed and marked Exhibit V.

Complainants' testimony closed.

Defendants' Note of Evidence.

Counsel for defendants, John A. Buckner and F. F. Montgomery, offered in evidence the following exhibits:

1st. Depositions of W. B. Keen, Martin Compton, E. W. Constant, F. F. Montgomery, S. H. Moberly, taken by commissioner, filed and marked Exhibit "M."

2nd. Depositions of John A. Buckner, taken by commission-, filed and marked Exhibit "N."

3d. Deposition of W. A. Wyly, taken by commission-, filed and marked Exhibit "O."

4th. Deed from heirs of King, complainants, to Eleonora E. Hall, dated 19th Feb'y, 1878, with date of filing certificate of recordation, filed and marked Exhibit "C."

5th. Note of W. D. King and Mrs. E. E. Hall in favor of Graham, Black & Co. for $10,000 & interest secured by mortgage & duly recorded.

351 6th. Petition, act of mortgage, notes, & order for order of seizure and sale, & writ in case of T. L. Aivey & Co. *vs.* Ben. E. Hall, executor.

7th. Petition, act of mortgage, & mortgage notes, order for order of seizure and sale, and writ in case of J. A. Buckner *vs.* Ben. E. Hall, executor, sheriff's returns on both of above-named writs.

8th. The proceedings in the monition suits of Hays & Defee, and opinions and decrees of the circuit court in said suits.

9th. Rule and proceedings against B. E. Hall, curator of succession of King, to coerce him to fill account, &c., taken by complainants and others.

10th. Answer of Ben. E. Hall thereto.

11th. Judgement and order of court.

12th. Orders to sell property of the succession, dated Nov. 16th, 1883, & Dec. 27th, 1880. Order to sell property, dated Nov, 30th, 1877.

13th. Provisional account, marked "B."

14th. Provisional account filed June 11th, 1881.

15th. Final account filed April 21st, 1884.

16th. Acknowledgement of service of attorney of absent heirs on account, dated April 21st, 1884.

352 17th. Appointment & oath of attorney of absent heirs — Sept. 27th, 1877.

18th. Vouchers accompanying provisional & final accounts of B. E. Hall, found in transcript of record and proceedings in State court filed and marked Exhibit X.

Defendants' testimony closed.

Extract of Minutes, Wednesday, October 28th, 1885.

Court met pursuant to adjournment.

Present: His hon. Aleck Boarman, district judge, presiding.

HEIRS [OF] W. D. KING
vs.
BEN. E. HALL, Ad'm'r, *et al.* } No. 94.

This cause came on again to be heard and argument concluded, and case submitted upon briefs to be furnished on or before Nov. 18th, 1885.

Extract of Minutes, Saturday, November 21st, 1885.

Court met pursuant to adjournment.

Present: His hon. Aleck Boarman, district judge, presiding.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

By consent of counsel this cause was assigned for hearing at Opelousas at the January, 1886, term of court.

357 *Decree.*

Extract of Minutes, February term, A. D. 1886.

FRIDAY, *26th day of February*, 1886.

Court met pursuant to adjournment.

Present: The Honorable Aleck Boarman, district judge, presiding.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

This cause came on to be further heard at this term, and was argued by counsel; and thereupon, upon consideration therçof, it was ordered, adjudicated, and decreed that the complainants' demands be rejected, and that their bill be dismissed, with costs of this suit.

Read *in* signed in open court this 26th day of February, 1886.

(Sig.) ALECK BOARMAN, *Judge.*

Filed Feb'y 26th, 1886.

J. B. BEATTIE, *D'y Cl'k.*

Extract of Minutes, Thursday, April 29th, 1886.

Court met pursuant to adjournment.

Present: His hon. Aleck Boarman, district judge, presiding.

HEIRS [OF] W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

Motion to set aside decree filed.

358 *Motion to Set Aside Decree.*

U. S. Circuit Court, West. Dist. of Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, Adm'r, *et als.*

To the hon'l the judges of the circuit court of the United States for the western district of Louisiana:

The humble petition of the complainants showeth as follows:

1st. That the cause was argued and submitted on briefs at the October term of your hon'l court, holden at the town of Monroe in the year 1885, and taken under advisement by your honors.

2nd. That a final decree was rendered at the Opelousas term in January, 1856, dismissing complainant's bill, with leave, as complainants understood, to file a petition for rehearing at the Alexandria term on the fourth Monday of January, 1886.

3d. That complainants, by their solicitor, prepared a petition for rehearing and forwarded it to the deputy cl'k of your hon'l court at Alexandria, with a motion to have said petition set down for hearing at the April term, at Monroe, and that said petition was received

and filed at and during the term of your hon. court at Alexandria, but, as petitioners are informed, was set down for hearing at the February term at Shreveport without notice to them of their solicitor.

4th. That at and during the February term of your hon.
359 court at Shreveport, in the absence of complainants and their solicitor, and without notice to them, or either of them, the petition for rehearing was taken up and heard, the rehearing denied, and a final decree signed dismissing complainants' bill at their costs.

5th. That said proceedings were had without notice to and without the knowledge of complainants and their solicitor, through inadvertence and errors on the part of the clerk and on the part of the defendant's solicitors, in ignorance of the rules of your hon. court, and had worked a prejudice and injury to complainants in that they have been deprived of all benefits and advantage of their petition for rehearing and of the reasons given by your honor for the judgment and decree of your hon. court.

Your petitioners therefore humbly prays that the said decree may be vacated and set aside and their said petition for rehearing set down for hearing and heard at this term of this hon. court or that the court will please to make such other order in the premises as to your honors shall seem meet.

WADE R. YOUNG, *Solicitor.*

Before the undersigned authority personally came and appeared Wade R. Young, who, being by me duly sworn, deposes and says that he is the solicitor for the petitioners; that they are absent from the State of Louisiana, and that all the facts stated and allegations made in the foregoing petition are true and correct to the
360 best of his knowledge and belief.

WADE R. YOUNG.

Sworn and subscribed before me this the 29th day of April, A. D. 1886.

[L. S.] J. B. BEATTIE, *D'y Clk.*

Order Setting Aside Decree.

Extract of Minutes, Friday, April 30th, 1886.

Court met pursuant to adjournment.

Present: His Honor Aleck Boarman, district judge, presiding.

HEIRS [OF] W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

It is ordered that the decree entered in this cause at Shreveport be set aside, and on hearing the motions for rehearing it is ordered that the same decree be signed as of this term of court.

Decree signed.

Decree.

United States Circuit Court, Fifth Circuit, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

This cause came on to be further heard at this term and was argued by counsel, and thereupon upon consideration thereof it was ordered, adjudged, and decreed that the complainants', de-
361 mands be rejected & that their bill be dismissed with costs of this suit

Read and signed in open court this 30th day of April, 1886.

ALECK BOARMAN, *Judge.*

Filed April 30th, 1886.

J. B. BEATTIE, *D'y Clk.*

Motion to tax costs filed and same referred to a committee composed of Mess. M. J. Liddell, D. C. Morgan, & W. N. Potts, for the purpose of reporting upon the correctness of master's report.

Motion to Tax Costs.

HEIRS OF KING
vs.
HALL *et als.* } No. 94.

The defendants respectfully pray that the cost in this case be taxed by the clerk of this hon'l court, and they will ever pray.

LUDELING & STILLMAN, *Solicitors.*

Order of Appeal.

On motion of Wade R. Young, Esq., solicitor for complainant, it is ordered that an appeal with supersedeas be allowed upon complainants entering into bond in the sum of five hundred dollars ($500.00), conditioned according to law, to be returnable into the United States Supreme Court, on or before the 2nd Monday of October, A. D. 1886.

362 *Appeal Bond.*

U. S. Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. —.

Know all men by these presents that we, Mrs. Elizabeth Norman and James M. Norman, her husband, and Miss Eunice King, as principals, and T. M. Sexton, T. J. Hargrove, E. G. Payton, as surety, are held and firmly bound unto John A. Buckner, E. J. Delony,

and F. F. Montgomery, of the parish of East Carroll, and State of Louisiana, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to them, their executors, or administrators; to which payment well and truly to be made we bind ourselves and each of us jointly and several-y, and we and each of our heirs, executors, and administrators several-y by these presents.

Dated this the 5th day of June, 1886.

Whereas the above-named Mrs. Elizabeth Norman and James Norman, her husband, and Miss Eunice King, have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled cause by the hon'l the circuit court of the United States for the western district of Louisiana:

Now, therefore, the condition of this obligation is such that if the above-named Mrs. Elizabeth Norman and James M. Norman
363 her husband, and Eunice King shall present their appeal to effect and answer all costs and damages if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

JAMES M. NORMAN.
ELIZABETH NORMAN.
EUNICE H. KING.
F. M. SEXTON.
E. G. PAYTON.
T. J. HARGROVE.

STATE OF MISSISSIPPI, *County of Copiah:*

Personally appeared before me, clerk of chancery court of Copiah county, F. M. Sexton, T. J. Hargrove, and E. J. Payton, the surety in the foregoing obligation named, each of whom being duly sworn deposes and says that he is a resident of the State of Mississippi, county of "Copiah," and a householder therein, and is worth the sum of five hundred dollars over all his just debts and liabilities and exclusive of property exempt by law from execution.

F. M. SEXTON.
E. G. PAYTON.
T. J. HARGROVE.

Sworn to and subscribed before me this 5th day of June, 1886.

[L. S.] J. D. GRANBURY, *Clerk*,
By J. L. ARD, *Dy Clerk*.

364 STATE OF MISSISSIPPI, *County of Copiah*:

I, J. D. Granbury, clerk of the chancery court of said county, certify that on this the 5th day of June, 1886, before me personally appeared J. M. Norman, Elizabeth Norman, Eunice H. King, F. M. Sexton, E. G. Payton, and T. J. Hargrove, to me known to be the persons described in and who executed the foregoing instrument and surety — acknowledged to me that they executed the same as their own free act and deed for the ends and purposes therein mentioned.

Given under my hand and official seal this the 5th day of June, A. D. 1886.

J. D. GRANBURY, *Clerk*,
By J. L. ARD, *D'y Clk.*

Approved June 4th, 1886.

ALECK BOARMAN,
U. S. Judge.

Filed June 7th, 1886.

J. B. BEATTIE, *Clerk.*

365 *Complainants' Testimony.*

EXHIBIT H.

UNITED STATES OF AMERICA.

STATE OF LOUISIANA, *Parish of East Carroll:*

United States Circuit Court, Western Division of Louisiana.

In the Matter of HEIRS OF W. D. KING,
vs.
BEN. E. HALL, Adm., *et als.* } No. 94.

Be it remembered that on this, the 10th day of September, A. D. 1885, I, Chas. R. Egelly, a commissioner of the circuit court of the United States in and for the western district of La., duly commissioned and qualified as such, did, under, and by virtue of a special commission to me issued, bearing date of September 7th, 1885, issued by the hon. circuit court of said district, authorizing and requiring me to take the depositions of Albert G. Belden, J. H. Mobberly, J. M. Kennedy, A. Blum, F. F. Montgomery, and E. J. Delony, and reduce to writing their answers to the interrogatories and cross-interrogatories to be to them propounded, *I caused* to be issued summons to the different witnesses named herein to appear before me on the day and dates hereinafter named, in the town of Lake Providence, in the parish, State, and district aforesaid, to be examined as witnesses in a cause pending in the circuit court of the United States in and for the western district of Louisiana, wherein the heirs of W. D. King are plaintiffs and Ben. E. Hall, adm.,
366 *et als.* are defendants, and on this, the 11th day of September, A. D. 1885, at 10½ o'clock a. m., Joseph M. Kennedy, witness of lawful age, being by me cautioned and sworn to testify the whole truth, and being carefully examined, I reduced to writing his answers "*seriatim*," in words and figures as follows, to wit:

To Int. 1. *1st.* Witness answers and says: Yes; I did. He died in Sept., 1877.

2nd. His succession was opened and administered in this parish (East Carroll) by Ben. E. Hall, as curator.

3rd. Witness answers and says: I have no knowledge of the matters enquired of in this interrogatory.

4th. Witness answers and says: Yes; slightly.

5th. Witness answers and says: My understanding from him and her both was that Mrs. Hall was the sister of John A. Buckner.

6th. Witness answers and says: I do not know.

7th. Witness answers and says: At the time of Mrs. Hall's death she resided on the Mounds plantation, in this parish (East Carroll), and my recollection is that at that time John A. Buckner resided on the Sauve Terre plantation, the distance being about one or two miles.

367 8th. Witness answers and says: I knew Ben. E. Hall, husband of Mrs. Leonora Hall. I do not know whether or not he owned any property here or elsewhere. When I knew him I regarded his ability and capacity for business as rather inferior and limited. I do not know who administered the separate property of Mrs. Hall—herself or her husband. Mrs. Hall died in ——, 1879, and her will shows Ben. E. Hall to have succeeded to all her property in Louisiana as legatee, and also as executor.

9th. Witness answers and says: Yes; I have known John A. Buckner for about 10 (ten) years. During this time he has owned and possessed a large amount of property in this parish in his own name; cannot say how much. I regard him as one of the most capable, active, & energetic business men I ever knew.

10th. Witness answers and says: I know nothing of this except in a general way—from information derived from others; I know nothing whatever of the particulars, and do not know who acted for or represented Mrs. Hall in the transaction.

11th. Witness answers and says: I do not know.

12th. Witness answers and says: All these matters and things enquired of in this interrogatory are matters of record in the 8th district court of this parish and State, and I cannot say aside from these records.

13th. Witness answers and says: I have no knowledge of the matters enquired of in this interrogatory.

368 14th. I do not know whether an actual seizure was made or not; did not inquire. The return on the writ will show whether a keeper was appointed or not; I do not know. I did not represent any of the parties and do not know what instructions were given with regard to the execution of the writ. If any were given I suppose they were given by W. G. Wyly, who represented the plaintiffs.

15th. Witness answers and says: Ben. E. Hall was in possession of the Mounds plantation at the time of the seizure. I do not know whether he remained in the actual possession of the place or not, but he continued to reside on it; do not know whether the sheriff took actual possession or not, or whether he performed any act of detention whatever; do not know who received the revenues from the property; do not know whether or not John A. Buckner had any possession or control of the plantation during that time, or whether he received any of the revenues therefrom.

16th. Witness answers and says: I do not know what the actual rents and revenues of the plantation were worth during that time.

I suppose the place was worth about $3,000 per annum rental, but I know little of the place; my knowledge is only in a general way.

17th. Witness answers and says: I suppose it was worth from $25,000 to $30,000 (twenty-five to thirty thousand dollars). I do not know who was in possession or cultivating said plantation at the time Ben. E. Hall resided on the place.

369

18th. Witness answered and says: The matters inquired of in this interrogatory are matters of record in the district court of this parish, and I do not recollect outside of these records, except that the property was offered at the court-house door in the town of Lake Providence, East Carroll parish.

19th. Witness answers and says: My recollection is that the highest price bid was something the rise of thirty thousand dollars; it was bid by Ben. E. Hall for his own account, as he announced to the sheriff. John A. Buckner was present and also bid for the property. There were only three bidders at the sale, John A. Buckner, Ben. E. Hall, and Samuel L. Graham, represented by myself as att'y and by Edward J. Stiles as agent. John A. Buckner and Samuel L. Graham were the first bidders. After the property had been bid up to some $17,000 *dollars* Buckner quit bidding; whereupon Ben. E. Hall, who up to this time had not bid at all, commenced bidding, and ran the property up on S. L. Graham. I do not know whether he was induced to do so by John A. Buckner or not; have no means of knowing. The property was adjudicated to Hall, but he did not pay the price of his bid, as he had no money to do so. He was not a responsible bidder by any means, and there could have been no reasonable expectation of his paying the price bid by him. His bid had the direct effect of preventing the sale at that time. The next highest bid to that of Ben. E. Hall was, I believe, thirty thousand five hundred dollars. It was made by Edward J. Stiles for the account of Samuel L. Graham. The adjudication to him was prevented by the higher bid of Ben. E. Hall. Hall stated at the time that he would bid as much as $40,000 *dollars* rather than the property should be adjudicated to S. L. Graham. Immediately after the property had been adjudicated to Ben. E. Hall he, John A. Buckner, and Judge W. G. Wyly, the att'y for the plaintiffs in the execution, left the court-house together. Witness then, on behalf of Samuel L. Graham, notified the sheriff that he regarded the bid of Ben. E. Hall as a sham and a ruse to prevent the property from passing out of his possession, and that if the said bid was not paid immediately I insisted upon the property being adjudicated to Samuel L. Graham, or upon it being immediately re-offered for sale. The sheriff notified Judge W. G. Wyly of this, and then informed me that upon the instructions from Judge Wyly he, the sheriff, would give Ben. E. Hall two (2) hours wherein to pay this bid. He also informed me that at the end of this time if it was not paid he would reoffer the property for sale. At the end of this time I returned to the court-house with Edward J. Stiles for the purpose of again bidding on the property should it be again offered; whereupon I was informed by the sheriff that he had been instructed in the meantime by Judge W. G. Wyly to withdraw the sale, which he, the sheriff,

370

371

accordingly did and this is a history of the transaction which prevented the adjudication of the property to Sam. L. Graham. Mr. Graham was well known as a man of the highest responsibility, and amply able to comply with his bid. He was the senior member of the commission and cotton factorage house of Graham, Black & Co., of New Orleans, Louisiana, and owned two large plantations in this parish (East Carroll), and also, as I have understood, valuable property in the State of Tennessee. My understanding is that he is quite a rich man. At that time Ben. E. Hall resided on the Mounds plantation; he had no credit, and his business character was about gone. Since answering this question as above, upon thinking over the matter, I believe that Judge W. G. Wyly did bid at the sale for T. L. Airey & Co., but only to the amount of Airey & Co.'s debt.

20th. Witness answers and says: My information is that he now resides in Illinois; he left this parish in the summer of 1884. I do not know when the present suit was instituted, and of course cannot say where he had his domicil at that time, but he has had no domicil in the State of Louisiana that I have ever heard of since he left, in the summer of 1884. I do not know of his having left any property whatever behind him.

372 21st. I am not acquainted with the nature of this suit as I have never seen any of the pleadings, or had them recited to me, and I have stated all the facts within my knowledge within the compass of this examination.

Cross-examined:

X 1st. Witness answers and says: All I have said in my examination-in-chief in regard to the circumstances attending the bidding at the offering of the Mounds plantation for sale by the sheriff is from my personal knowledge. I was present, representing Sam. L. Graham, as att'y at law.

X 2nd. Witness answers and says: I have answered this in the above answer.

X 3rd. Witness answers and says: My answers to all the interrogatories propounded to me are based upon personal knowledge, except where otherwise stated in the answer itself.

J. M. KENNEDY.

Sworn to and subscribed before me this the 11th day of September, A. D. 1885.

[L. S.] CHARLES R. EGELLY,
U. S. Commissioner.

373 Not being able to complete the taking of depositions of the remaining witnesses for the reasons of said witnesses being summoned for different dates, I adjourned the further taking of testimony in this case until Saturday, September 12th, 1885, at 12 o'clock *a.* m.

CHAS. E. EGELLY,
U. S. Commissioner.

SATURDAY, *Sept. 12th*, 1885.

Met this day at 10 o'clock pursuant to adjournment and resumed the taking of testimony in the within-entitled suit.

The witness Edward J. Delony, being by me duly sworn, deposes and answers as follows:

1st. To interrogatory 1st witness answers & says: The first payment was made upon the claim due Montgomery & Delony by the succession of W. D. King for legal services rendered W. D. King prior to his death, and was for the sum of $928.77 dollars, receipt for which was given by F. F. Montgomery, dated June 4th, 1884, as paid by check of Ben. E. Hall, adm., on Louisiana National Bank.

2nd. Witness answers and says: The answer to this interrogatory is answered above.

3rd. Witness answers and says: The payment was made before the sale and adjudication of the property of the succession of King; that is to say, of the real estate. There was a sale of some personal
374 property before. I cannot say whether it was made by Ben. E. Hall in person or some one else, as it was made to my law partner, F. F. Montgomery, who receipted for the same, nor can I say out of what funds it was paid or from what source from which it was paid — was received.

4th. Witness answers and says: Ben. E. Hall lived on the Mounds plantation, and my opinion was that he was managing the interests of his wife and the succession of King in the Mounds plantation.

5th. Witness answers and says: The agreement of compromise, if it can be so called, I think, was made between Capt. F. F. Montgomery and W. G. Wyly, Esq., who seemed to be representing all parties in interest, except Montgomery and Delony.

6th. Witness answers and says: The agreement, as I understood it, was that, if the claim of Montgomery and Delony for $1,200 *dollars*, with interest — $225.00, *dollars* for fees due Montgomery & Delony for opening the succession of King and services rendered after the succession was opened, should be paid in full, Montgomery & Delony were to cease all litigation against Ben. E. Hall, administrator, T. L. Airey, and John A. Buckner in the injunction suits, enjoining the sale of the King interest in the Mounds plantation by T. L. Airey or John A. Buckner, and enjoining the confirmation of a tax title John A. Buckner claimed to have had to said
375 property. This is my understanding of the matter. F. F. Montgomery, however, can state it more explicitly, as the negotiations were had principally with him.

7th. Witness answers and says: I think the agreement was had before the sale and adjudication of the property to Isadore Newman, though the payment of our claim was made after the sale and out o the funds derived therefrom.

8th. Witness answers and says: The payment of the second claim for $1,425 *dollars* was made on the 14th March, 1884; at least the receipt for the same bears that date. The receipt is given to Ben. E. Hall, curator, succession of King, but the amount, according to my understanding, was made by the sheriff out of the proceeds of the

sale made to Isadore Newman on the 19th of January, 1884, of what is known as the Manning, Cable, one-half of Lick Skillet, and Nash places. This was done, I think, upon the order of W. G. Wyly, att'y, as I supposed, for Ben. E. Hall, curator of the succession of King. The receipt for the same is on file among the succession papers of W. D. King.

9th. Witness answers and says: The payment was made before the disposal of the injunction suits above referred to. The suit against T. L. Airey & Buckner, No. 181 of the docket of the 8th district court of the parish of East Carroll, was tried by con-
376 sent by J. Harvey Brigham, judge of the 6th district court, in chambers, on the 6th of May, 1884, and the injunction dissolved, as will be shown by the judgement on file in the said suit. The suit against Buckner, Hall, *et al.*, No. 323 of the docket of the 8th district court, to annul the tax sale and enjoining the perfecting of the same was also tried in chambers by consent by Hon. J. Harvey Brigham, judge of the 6th district court, and injunction dissolved and suit dismissed on the 6th day of May, 1884, as will be shown by the judgement in said suit. I have stated before that the claim of Montgomery & Delony for $1,425 *dollars* was made after the sale of the property to Isadore Newman, and said payment made by the sheriff out of the proceeds of said sale, and upon the order, according to my recollection, of W. G. Wyly, attorney. The receipt shows that the payment was made on the 14th day of March, 1884.

10th. Witness answers and says: I cannot state with whom the agreement for the trial and disposal of the injunction suits against John A. Buckner and T. L. Airey & Co. and John A. Buckner, Ben. E. Hall, *et al.*, Nos. 181 & 323 of the docket of the 8th district court, was made, though I think it was with W. G. Wyly, att'y for the defendants in said suit. Capt. Montgomery can state more positively about this matter, as the negotiations were made with him more particularly. I am satisfied that the agreement for the disposal of
377 these suits & the manner in which it was done would not have been made had not the debt due by the succession to Montgomery & Delony been settled, for the object of those suits was more particularly for the purpose of enforcing payment of said claim out of the succession property of King in preference to all other claims against Mrs. Ben. E. Hall or the succession of King, as we believed our (M. & D.) claim to be the only legal and just debt due by said succession, and feared if the interest of King's succession in the Mounds plantation was allowed to pay out of the succession under the seizures of T. L. Airey & Co. and John A. Buckner and the tax purchase of John A. Buckner there would not be sufficient property left in the succession to pay our debt. The debt having been paid by the sale of the property to Isadore Newman, we had no further personal interest in pursuing the litigation on further, and, therefore, consented to or allow said suits to be tried as set forth and disposed of without opposition on our part—that is, such were the motives that actuated me, and, I suppose, also Capt. Montgomery, my law partner.

11th, 12th, and 13th. Witness answers and says: In answer to

interrogatories 11, 12, and 13th, I will state I was not present at the first offering of the Mounds plantation under the seizure and sale suits of T. L. Airey and Co. and John A. Buckner, and all the information I have as to the bidding was derived from others who
378 were present, a statement of which I have made fully in answers to former interrogatories propounded in this case. Mr. Ben. E. Hall, with whom I had been acquainted for several years previous to the offering of the property in said suits, and since, was a man, so far as my knowledge goes, without means, property, or business credit. I had claims against him for collection and a judgement for several hundred dollars in favor, I think, of Bryan P. Seally, of Louisville, not a dollar of which was I ever able to realize by execution or otherwise. The next highest bidder to Ben. E. Hall upon the offering of said seizures was, I am informed, Mr. S. L. Graham, who was represented by J. M. Kennedy and Edward J. Stiles. He was a man, from what I have heard of him, of large means and almost unlimited credit. He owned large properties in this parish unencumbered. I think [he] was a member of commission house of Graham, Black & Co., New Orleans, and also, I understand, owned very large estates in the State of Tennessee.

14th. Witness answered and says: I cannot say by whom the bidding of Ben. E. Hall was prompted. It is mere supposition on my part that it was done in the interest of John A. Buckner to prevent the property going into the hands of S. L. Graham, or any one else. This opinion I formed from the fact that the bid of Graham, which, I was told, was thirty thousand five hundred dollars, would have paid the Airey & Co. debt, the Buckner claim, and our claim (Montgomery & Delony). If I was correctly informed as to
379 the amounts of Airey & Co. and John A. Buckner's claims this would have left, as I believe, the succession of King out of debt with the Manning, Cable, Nash, and Lick Skillet properties free.

15th. Witness answers and says: It is my firm opinion that throughout these transactions Mr. Ben. E. Hall was without property save what interest he might have as legatee of his wife in the Mounds plantation after the payment of the mortgages thereon. If he had any means or business credit I do not know it, nor was it apparent. I cannot say that he was a tool of John A. Buckner, though I believe him to be greatly under his control and influence.

16th. Witness answers and says: I do not remember anything further than what I have stated herein, and in my answers to interrogatories previously propounded to me in this suit.

Cross-examined:

X 1st. Witness answers and says: All the information that I have as to the bidding of the Mounds plantation at the first offering under the seizures of T. L. Airey & Co. and John A. Buckner, was, as I have stated in may answers to the interrogatories-in-chief, derived from persons who were present.

X 2nd. Witness answers and says: The matter of the bidding and

the return of the writ I learned from the sheriff, I think, his
380 deputy, A. G. Belden, Edward J. Stiles, J. M. Kennedy, who represented S. L. Graham, or who informed me they did.

X 3rd. Witness answers and says: I have given as near as I can at this time the source of such information or knowledge of all facts which I have related in my answers to the interrogatories-in-chief. Where facts are personally known to me I have so stated. When derived from information I have endeavored to state how and from whom said information was derived. In mere matters of opinion I have endeavored to give the reasons therefor. If I have stated any fact in which I have failed to show my source of knowledge or information I am not aware of it, and would be pleased to make the same known if my attention should be directed thereto.

[L. S.] E. J. DELONY.

Sworn to and subscribed before me this 12th day of September, A. D. 1885.

CHAS. R. EGELLY,
U. S. Commissioner.

Not being able to complete the taking of testimony in this cause for the reason of non-attendance of other witnesses, an adjournment was had until Monday, the 14th day of September, A. D. 1885, at 10 o'clock a. m., at which time and at my office in the town of Lake Providence, Louisiana, the taking of testimony in this case will be resumed.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

381 MONDAY, *September 14th*, 1885.

Met this day at 10 o'clock a. m., *in* pursuant to adjournment, for the purpose of resuming the taking of depositions of witnesses in the within-entitled cause, and at the hour of 10 o'clock a. m. the witness, S. H. Mobberly, appeared before me, and after administering to him the necessary oath in due form of law I proceeded to reduce to writing his answers to the interrogatories and cross-interrogatories as follows, to wit:

1st. To interrogatory 1st witness answers and says: I did not, nor do I know what year he died in; he died before I came to this parish.

2nd. Witness answers and says: I do not know.

3rd. Witness answers and says: I do not know anything of the matter enquired of.

4th. Witness answers and says: I did not.

5th. Witness answers and says: I do not know of my personal knowledge, but understood she was the sister of John A. Buckner; at least so I was informed.

6th. Witness answers and says: I cannot say, being unacquainted with the late Mrs. Hall or her affairs during her lifetime.

7th. Witness answers and says: I understood that Mrs.
382 Hall resided on the Mounds plantation when she died and

John A. Buckner lived on the Saure Terre place. Such was my information derived from other parties. The distance was about 1½ miles apart.

8th. Witness answers and says: I did. I cannot say whether he owned or possessed any property of his own in the State of Louisiana or elsewhere, not being intimately acquainted with him. I do not, nor do I know his capacity for business nor his ability. I do not know who administered the separate property of Mrs. Leonora Hall, whether it was herself or her husband. I do not know in what month or year Mrs. Hall died, nor can I say who succeeded to her property as executor or legatee; the records should show.

9th. Witness answers and says: I do personally; have known him for about six (6) years, and during my acquaintance with him know that he owned a great deal of property in his own name in this parish, but cannot state the valuation. I think he owned two plantations in East Carroll parish and one in Concordia parish, Louisiana. I regarded John A. Buckner as a thorough business man, and his ability and capacity was unexceptionable.

10th. Witness answers and says: I know nothing whatever of the matters enquired of in this interrogatory; the records of this parish should show all these transactions.

11th. Witness answers and says: I repeat the same answer
383 as to that given by me in my answer to interrogatory 10th.

12th. Witness answers and says: I am not familiar with any of the particulars connected with the transaction contained in this interrogatory, and therefore am unable to give any information whatever in answer thereto, being entirely unacquainted therewith.

13th. Witness answers and says: I know nothing whatever of the matters inquired of in this interrogatory.

14th. Witness answers and says: I think there was an actual seizure made of the Mounds plantation, & think it was in the suit of T. L. Airey & Co., & think C. A. Hedrick was appointed keeper; at least such is my information, and if I am not mistaken, believe that Hedrick told me so. I do not know what instructions were given in regard to the execution of the writ, nor by whom given.

15th. Witness answers and says: Ben. E. Hall was in possession of the Mounds plantation at the time of the seizure referred to. He continued to reside on the Mounds plantation, but whether he had possession or control I cannot say, nor do I know whether possession was ever taken from him. I do not know if the sheriff entrusted with the execution of the writ took actual possession of the plantation, or administered it, or leased it, or exercised any act of
384 detention. All I know in regard thereto is what I have heretofore stated. I know nothing of the injunction suits of Montgomery & Delony, nor do I know who received the fruits & revenues of the property during the time the Mounds plantation was under seizure in the suit of T. L. Airey & Co. I think that John A. Buckner cultivated the Mounds plantation in 1883 and 1884; at least that is my impression.

16th. Witness answers and says: The rents and revenues of the

Mounds plantation during that period were worth fully three thousand dollars per annum.

17th. Witness answers and says: I considered the value of the Mounds plantation at that time $20,000, twenty thousand dollars in cash. John A. Buckner was in possession, cultivating the Mounds plantation in 1884, at the time the property was adjudicated to him, and as I before stated, think he cultivated in 1883 and was in possession that year.

18th. Witness answers and says: I do not know who made the first offering. M. S. Powell was sheriff at that time, and he may have made the offering; the return of the sheriff will show.

19th. Witness answers and says: I think the highest price bid at the first offering was thirty-one thousand dollars ($31,000), and was bid by Ben. E. Hall, I believe, for his own account; do not know if John A. Buckner was present at the sale or not.

385 was not present myself, and therefore cannot say whether Hall paid the price of his bid or not, but I was reliably informed that he did not. I cannot say why Hall did not pay his bid; have no means of knowing. I do not think he could have paid the amount of his bid, and could not reasonably have been expected to do so. I think the bid made by Ben. E. Hall did affect the sale, as it would have been sold to the next highest bidder, and, therefore, prevented the sale. I was not present, as before stated, but was reliably informed by Edward J. Stiles, ag't for S. L. Graham, who had been present at the said first offering, that he had bid thirty thousand five hundred dollars ($30,500) for account of S. L. Graham. The reason why the property was not adjudicated to S. L. Graham, Mr. Stiles informed me, was in consequence of the bid of Ben. E. Hall; do no know if the property was withdrawn, nor by whose authority or direction. He was considered, and I knew him to be, a responsible person, and fully able to comply with his bid, being a man of large means and unlimited credit. S. L. Graham was at that time senior member of the commission house of Graham, Black & Co., of New Orleans; owned large manufacturing interests and landed estates, both in the State of Louisiana and also in Tennessee, and reputed to be, and I consider him, a wealthy man. Ben. E. Hall lived on the Mounds plantation; do not know what his business character and credit was at that time.

386 20th. Witness answers and says: I am informed that Ben. E. Hall is at present at Rock Island, State of Illinois. He has no residence, nor had he any domicil or residence in the State of Louisiana at the time of the institution of this suit, nor has he any property, real or personal, or rights or credit in Louisiana.

21st. Witness answers and says: I know nothing further of any matter or thing which may be of interest to the litigants in this suit, & have answered all I know about the matters enquired of to the best of my knowledge.

Cross-examined:

X 1st. Witness answers and says: I have carefully answered, as I consider, all the interrogatories in my answers-in-chief which are hereto referred to by me.

X 2nd. Witness answers and says: The main facts of the bidding and information derived I obtained from Ed. J. Stiles, agent for S. L. Graham, with whom I was personally well acquainted and conversed about the bidding at the first offering. As to the responsibility and ability of Mr. Graham, I know of my own personal knowledge, having been his agent for the past six (6) years.

X 3rd. Witness answers and says: I have answered this
387 in full in my answer to cross-interrogatory 2.

S. H. MOBBERLY.

Sworn and subscribed before me at 3 o'clock p. m., this the 14th of September, A. D. 1885; after which time an adjournment was had until 4 o'clock p. m.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

SEPTEMBER 14th, 1885—4 o'clock p. m.

Met at this hour pursuant to adjournment, and taking of testimony resumed.

The witness, Abraham Blum, appearing, was duly cautioned and sworn by me according to law, and, in answer, deposes and says:

1st. Witness answers and says: No; I did not know W. D. King. I think he died in the fall of 1877.

2nd. Witness answers and says: I think Ben. E. Hall administered the succession of W. D. King; it was opened in the parish of East Carroll (at that time Carroll).

3d. Witness answers and says: I cannot say.

4th. Witness answers and says: I did.

5th. Witness answers and says: She was the sister of John A. Buckner.

6th. Witness answers and says: I do not know.

388 7th. Witness answers and says: Mrs. Hall resided on the Mounds plantation and Buckner on Saure Terre; the distance, I think, was about two miles.

8th. Witness answers and says: I knew Ben. E. Hall, but did not know of his owning or possessing any property. All of his transactions were as Ben. E. Hall, ag't, as far as I knew. I think he was a fairly good business man. I cannot say who administered the separate property of Mrs. Hall or who succeeded to her property as executor or legatee; the records of this parish should show.

9th. Witness answers and says: Yes; I have known Jno. A. Buckner since 1876. I think that during the time I have known him he has owned Uxinona plantation, in Concordia parish, and Waverly, Mounds, Tompkins, and Melbourne plantations, in East Carroll

parish. I regard him as one of the finest business men I ever knew.

10th. Witness answers and says: I know nothing whatever of these transactions.

11th. Witness answers and says: I think Montgomery & Delony were paid, from what I heard, but know nothing as to dates.

12th. Witness answers and says: I know nothing whatever in response to this, except that I think the sheriff at that time was M. S. Powell.

13th. Witness answers and says: I know nothing whatever.

389 14th. Witness answers and says: I cannot answer, as I was not conversant with the matters inquired of.

15th. Witness answers and says: I know nothing whatever, except that I think John A. Buckner was in possession of the Mounds plantation during the years 1883 and 1884, but who received the fruits & revenues of said place during said years I am unable to state.

16th. Witness answers and says: I consider the rental of the Mounds plantation to be worth ($3,000) three thousand dollars per annum.

17th. Witness answers and says: I considered the actual value of the Mounds plantation at the time it was adjudicated to John A. Buckner to have been worth ($20,000) twenty thousand dollars. Buckner was in possession at the time it was adjudicated to him, and had been in possession the year previous, 1883.

18th. Witness answers and says: I do not know.

19th. Witness answers and says: The highest price bid for the Mounds plantation at the first offering was thirty-one thousand dollars ($31,000), and was bid by Ben. E. Hall, I think, for his own account. I think Buckner was present at the sale, but do not know whether he bid for said property or induced any one else to bid.

390 The next highest price bid was, I think, either thirty thousand or thirty thousand five hundred dollars, and was bid by Ed. J. Stiles, representing S. L. Graham, of New Orleans. The property was not adjudicated to Graham because Hall bid a larger sum. I do not know whether the property was ordered withdrawn or not. Yes; he was decidedly so, being known as a commission merchant of high standing, of large means, an extensive planter & manufacturer, and I regarded him as a very rich man. Ben. E. Hall resided on the Mounds plantation and his commercial credit at that time was poor.

20th. Witness answers and says: I think he now resides at Rock Island, Illinois. Hall did not have, to my knowledge, any domicile or residence in the State of Louisiana at the time this suit was instituted, nor did he own or possess any property, real or personal, rights, or credits in said State then nor since.

21st. Witness answers and says: I know nothing further which would be of interest to the litigants in this cause.

Cross-examined:

X 1st. Witness answers and says: I consider I have answered to the best of my knowledge all the questions propounded to me in my examination-in-chief, which I refer to as an answer to this.

391 X 2nd. Witness answers and says: This is answered in my first X answer to X interrogatory 1 above.

X 3rd. Witness answers and says: I derived my information from various persons, viz: Ed. J. Stiles and other reliable ones, with whom I was personally acquainted, residing in my neighborhood.

A. BLUM.

Sworn to and subscribed before me on the 14th day of September, 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

After which an adjournment was had until October the 1st, 1885, at 10 o'clock a. m., in consequence of the illness of the witness, A. G. Belden, and absence from the parish of the witness, F. F. Montgomery.

CHAS. R. EGELLY,
U. S. Commissioner.

THURSDAY, *Oct. 1st.*, 1885.

Met at 10 o,clock a. m. this day and resumed taking of testimony in said cause, and the witness, A. G. Belden, appearing, and being by me first duly sworn according to law, deposes and answers as follows, to wit:

1st. To interrogatory 1st witness answers and says: I did; I knew him from 1874 up to the time of his death, which occurred, I think, in 1876.

2nd. Witness answers and says: Ben. E Hall administered
392 the succession of W. D. King, and it was opened in the parish of East Carroll.

3rd. Witness answers and says: I am unable to state, not being familiar with King's business affairs.

4th. Witness answers and says: I did.

5th. Witness answers and says: I think she was the sister of John A. Buckner; at least I have always so understood.

6th. Witness answers and says: I am unable to state. I know that Montgomery & Delony were her legal advisers.

7th. Witness answers and says: Mrs. Hall resided on the Mounds plantation, and Jno. A. Buckner resided on the Saure Terre place, the distance from one plantation to the other being about 1½ miles.

8th. Witness answers and says: I did. I cannot say whether Ben. E. Hall owned any property in his own name in this State or elsewhere. I always regarded Ben. E. Hall as a fair business man. I cannot say who administered the separate property of Mrs. Leonora Hall; the records of this parish should show. Ben. E. Hall succeeded to her property as executor & legatee.

9th. Witness answers and says: I do, very well; have known him for at least ten (10) years; yes; he has possessed a large
393–4 amount of valuable property that I know of in this parish, the valuation of which I cannot say, but the amount could be ascertained by referring to the parish assessment-rolls. I regard Jno. A. Buckner as being the most able and thorough business man in the parish of East Carroll.

10th. Witness answers and says: I know nothing of the matters enquired of in this interrogatory.

11th. Witness answers and says: The debt due by the succession of King to the law firm of Montgomery & Delony was paid then, I think, by Ben. E. Hall out of the proceeds of property belonging to the succession of King; at least I so understood; I cannot remember the time of payment.

12th. Witness answers and says: Yes; there were proceedings instituted by them to compel payment of their claim, but cannot remember the date or year.

The writ of seizure and sale against the Mounds plantation was instituted in the suit of T. L. Airey & Co. *vs.* Ben. E. Hall, test. executor of Mrs. Leon-ra Hall, I think in 1880, on the 22nd day of April. The seizure at that time was made by John Asberry, sheriff, or by one of his deputies; I think probably by S. D. Oliver, his chief deputy, who now resides in this parish. Asberry was succeeded by M. S. Powell, as sheriff, and I, as one of his deputies, offered
395 the property for sale on 19th of July, 1880, as shown on the return written by me. A certified copy of the portion of the return which I refer to I annex hereto for more accurate information as a part of this my answer.

W. G. Wyly conducted the suit and directed the proceedings.

The injunction proceedings were instituted at the instance of E. J. Delony and F. F. Montgomery, composing the law firm of Montgomery & Delony, enjoining the sale, as I understood it, for the purpose of enforcing the payment of the claim due them by the succession of—; cannot say how long the injunction was pending; but think, when I offered the property for sale on the 19th day of July, 1880, there had been some understanding between the parties as to said injunction suit, the nature of which I did not learn.

Copy of Return Made by A. G. Belden, Deputy Sheriff.

And on said 19th day of June, A. D. 1880, I, M. S. Powell, sheriff, successor of John Asberry, late sheriff, at the place aforesaid and between the hours prescribed by law, did offer said property for sale at public auction, in an audible voice, after having read this writ, the advertisement of sale, and the recorder's certificate of mortgages; whereupon Ben. E. Hall bid the sum of thirty-one thousand dollars ($31,000.00) for said property, that being the highest and last bid. But he failing to comply with his bid,
396–7 I was instructed on same day by W. G. Wyly, attorney for plaintiffs, the defendant, Ben. E. Hall, ex'r, consenting and agreeing thereto, to postpone the sale and continue the advertise-

ment till the first Saturday in July; wherefore I acted accordingly and readvertised said property in said newspaper to be sold at the place and on the terms aforesaid on the 1st Saturday, the 3rd day, of July, 1880. On said last-mentioned day of sale I was again instructed by W. G. Wyly, plaintiffs' attorney (before preceeding to make said sale), to postpone the sale until the next regular sale day; wherefore I accordingly again readvertised said property for sale in said newspaper to be sold at the place and on the terms aforesaid on the 1st Saturday, the 7th day, of August of said year, but before said last-mentioned day of sale, to wit, on the 22nd day of July, 1880, I was again instructed by W. G. Wyly, plaintiffs' attorney, to again postpone the sale until further orders, and to discontinue the advertisement, which I accordingly did.

A true copy of the original return made by A. G. Belden, deputy sheriff, referred to by him in his several answers.

CHAS. R. EGELLY,
U. S. Commissioner.

[Endorsed:] No. 1789. T. L. Airey & Co. *vs.* Ben. E. Hall, test. executor of Leonora Hall. Filed in evidence Oct. 1st, 1885. A. Chas. R. Egelly, U. S. commissioner.

398 13th. Witness answers and says: I know nothing of the matters inquired of in this interrogatory; never saw any money paid to Montgomery & Delony in said cause.

14th. Witness answers and says: As previously stated, the seizure was made by Jno. Asberry, former sheriff, or one of his deputies (I think S. D. Oliver), in 1880, and he appointed C. A. Hedrick as keeper of the property, both real and persenal, including stock, &c., &c. Hedrick was residing on the Mounds plantation, and I believe was the manager of Ben. E. Hall. I suppose the sheriff did take actual possession in the manner herein described, and appointed a keeper to take charge of the property in the suits of T. L. Airey & Co. and Jno. A. Buckner. The instructions in regard to the execution of the writ are fully explained in my answer to the interrogatory 12, on page 53, and were given by W. G. Wyly, att'y for T. L. Airey & Co. and Jno. A. Buckner.

15th. Witness answers and says: Ben. E. Hall, executor of Mrs. Leonora Hall, deceased, was in possession of Mounds plantation at the time of the seizure *of* T. L. Airey & Co. and Jno. A. Buckner. C. A. Hedrick was appointed keeper, as I have before stated, but Ben. E. Hall continued to reside on the plantation. I do not
399 think the sheriff administered or leased the said Mounds plantation or exercised any act of detention thereto. He left everything in the hands of C. A. Hedrick, as keeper, as I understood. C. A. Hedrick was in possession as keeper, appointed by the sheriff, from the time the suits were instituted: but as to whether he remained in possession up to the time of the dismissal of the injunction suits of Montgomery & Delony —, as I was not connected with the sheriff's office at that date (1884); do not know [who] received the rents, fruits, & revenues during that period, nor

do I know of my own knowledge that Jno. A. Buckner had any possession or control of the Mounds place except hearing that he cultivated it in 1883 and 1884; but in what capacity I cannot say.

16th. Witness answers and says: I considered the rents and revenues of the Mounds plantation to be worth thirty-five hundred dollars per annum during said period. I consider that the property would have rented at an annual rent of thirty-five hundred dollars.

17th. Witness answers and says: The Mounds plantation at that time was worth between twenty thousand to twenty-five thousand dollars. I do not know who was in possession of said plantation and cultivating it at this time, nor how long he had been in possession.

400 18th. Witness answers and says: M. S. Powell was the sheriff, and I, as deputy sheriff, made the first offering of the Mounds plantation in the suit of T. L. Airey & Co. and Jno. A Buckner on the 19th day of June, 1880, at the door of the court-house in the town of Lake Providence, in the parish of East Carroll, Louisiana.

19th. Witness answers and says: The highest price bid was $31,000 *doll's*, at the first offering by Ben. E. Hall, as I understood him to tell me, for his own acc't. Jno. A. Buckner was present at the sale and did some bidding for said property. I do not know whether he induced any one else to bid or not. Ben. E. Hall did not pay the price of his bid, to wit, $31,000 *doll's;* cannot say why he did not pay, but presume it must have been from the fact of his not having the money. I considered at the time that he was bidding to be responsible, supposing that he had provided himself with the means to pay his bid when the property would be adjudicated to him. His failure to comply with his bid had the effect of preventing the sale of the property to another party. The next highest price bid was thirty thousand

401 five hundred dollars, and was made by Ed. J. Stiles, the duly authorized agent of S. L. Graham, of New Orleans, and the bid was made him for account of said Graham. The bid of Ben. E. Hall, being higher, prevented the adjudication of the property to said S. L. Graham. The sale of the property was postponed from time to time by W. G. Wyly, counsel for T. L. Airey & Co. and Jno. A. Buckner, as set forth in the return, which is annexed to my answer on page — thereof. Samuel L. Graham, who made the next highest bid, was a person of the highest responsibility and fully able to comply with his bid. He was the senior member of the commission and cotton factorage house of Graham, Black & Co., of New Orleans, a large planter, and owned a large amount of valuable landed property, both in this State & the State of Tennessee, and also owned large manufacturing interests, and I considered him to be a very wealthy man. Ben. E. Hall resided on the Mounds plantation at that time. I considered his business character good, but did not consider that he had any credit at that time.

20th. Witness answers and says: Ben. E. Hall resides at Rock Island, in the State of Illinois. Hall was living on the

402 Mounds plantation at the time this suit was instituted, but

does not reside there now, and suppose that he claimed the Mounds place as his domicile at the time, but do not know of my own knowledge. He did not own any property, real or personal, rights, or credits in the State of La. at that time nor since.

21st. Witness answers and says: I have stated, as far as I can remember, everything that I know in response to the interrogatories propounded of the matters at issue, and know nothing further which might be of advantage to the parties to this cause.

A. G. BELDEN.

Sworn to and subscribed before me this 1st day of October, 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

Cross-examined:

X Int. 1st. Witness answers and says: I did not so state it in my examination-in-chief.

X Int. 2nd. Witness answers and says: This is answered in X interrogatory 1.

X Int. 3rd. Witness answers and says: I derive my knowledge of the facts as to the offering of the Mounds plantation and the bidding therefore from my personal knowledge, and other facts
403 from seeing documents connected with the case while I was deputy sheriff, and from general information obtained from reliable sources.

A. G. BELDEN.

Sworn to and subscribed before me this 1st day [of] October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

FRIDAY, *Oct. 2nd*, 1885.

Met this day at 9 o'clock a. m., pursuant to adjournment, and the witness, F. F. Montgomery, appearing before me, I administered to him the oath in due form of law, and then proceeded to reduce to writing his answers to the interrogatories and cross-interrogatories in words and figures as follows, to wit:

1st. Witness answers and says: I will say, in answer to this, that I refer to the answer of E. J. Delony, on page —, and adopt [the] same as my answer.

2nd. Witness answers and says: I adopt the same answer as that of E. J. Delony, on page —.

3rd. Witness answers and says: The payment was made before the sale, and my recollection is that W. G. Wyly, who was the att'y for Ben. E. Hall, curator for King's succession, handed me the check of Ben. E. Hall on the Louisiana National Bank, and I gave my receipt therefor. I do not know out of what fund it was paid.
404 4th. Witness answers and says: I adopt the answer of E. J. Delony to this interrogatory, as answered by him on page —.

5th. Witness answers and says: I do not remember the day of the month or year any such agreement was made. Whatever agreement was made was a simple proposition made by W. G. Wyly, att'y for Ben. E. Hall, to pay our debt if we would allow the injunction suits to be dismissed, which proposition we acceeded to. There was no written agreement between us, and very little conversation on the subject.

6th. Witness answers and says: I know of no agreement except the proposition made by W. G. Wyly, att'y for Ben. E. Hill, to pay our debt if we would allow the injunction suits to be dismissed, as I have set forth in my answer to interrogatory 5.

7th. Witness answers and says: I think the understanding with W. G. Wyley, att'y for Hall, was made prior to the sale of the property to Isadore Newman.

8th. Witness answers and says: I presume it was made on the day the receipt bears date, to wit, March 14th, 1884. I have no memoranda of the date. My recollection is that W. G. Wyly, as att'y for Ben. E. Hall, gave me an order on the sheriff for my portion of the amount, and it was paid by M. S. Powell, sheriff.

405 9th. Witness answers and says: The payment was made before the dismissal of the injunction suits, and after the sale and adjudication to Isadore Newman. I have stated in my answer to interrogatory 8th as to how the payment was made and refer thereto. I do not know from what fund the payment was made, but suppose it was from that derived from Isadore Newman.

10th. Witness answers and says: I had no agreement either with Jno. A. Buckner, T. L. Airey, or any of their ag'ts or att'ys. My only agreement was with W. G. Wyly, att'y for Ben. E. Hall, and has been fully set forth in my answers to former interrogatories. As before stated, the money was paid before the dismissal of the injunction suits, and after the sale and adjudication of the property to Isadore Newman. I know nothing of the executory proceedings, or who controlled them, of T. L. Airey & Co. and Jno. A. Buckner. W. G. Wyly was att'y for both, and I suppose controlled the business. I had no agreement with Jno. A. Buckner, or his ag'ts or att'ys, about the matter, as frequently stated heretofore. My agreement was with W. G. Wyly, att'y for Ben. E. Hall, and, as also frequently stated, the money was paid to us before the dismissal of the injunction suits, and after the adjudication of the property to Isadore

406 Newman. It was not paid by Jno. A. Buckner, or any one for him, and I am unable to say who furnished the money to Ben. E. Hall.

11th. Witness answers and says: I was not present at the first offering for sale of the Mounds plantation in the suits of T. L. Airey & Co. and Jno. A. Buckner.

12th. Witness answers and says: I can only state upon information derived from others, chiefly M. S. Powell, sheriff (who advised with me as to what his duties were in the premises), that Ben. E. Hall was the highest bidder. I would not have considered Hall a responsible bidder, but am not prepared to say that the sheriff would have been justified in refusing to take notice of his bid. I do not

know for whom Hall made the bid. I do not know that he was a tool of Jno. A. Buckner, but am sure that he had neither money, property, or credit. I did not understand that he lived upon John A. Buckner's property, but upon the Mounds plantation, which, at that time, belonged to his wife's succession. I know nothing of his living upon the bounty of Jno. A. Buckner.

13th. Witness answers and says: My information was that S. L. Graham, through his att'y, J. M. Kennedy, and his ag't, Ed. J.
407 Stiles, made the next highest bid. Mr. Graham is a merchant—owns large plantation interests in Louisiana and large farming interests in [the] State of Tennessee; is also a manufacturer, and his character and credit are number one.

14th. Witness answers and says: I do not know that the bid of Ben. E. Hall was prompted by Jno. A. Buckner in order to prevent the adjudication of the Mounds plantation to S. L. Graham, nor do I know that the property was withdrawn from sale by direction of Jno. A. Buckner for the purpose of preventing the sale to S. L. Graham.

15th. Witness answers and says: From the time of the death of the wife of Ben. E. Hall and throughout these transactions Ben. E. Hall was a person without money or credit, but cannot say he was without business character. I did not consider him a first-class business man, but he had been a merchant and I regarded him as a fair business man. I cannot say that he was a mere tool of Jno. A. Buckner, or lived upon his property, or was dependent on his bounty; in fact, I know nothing of the matters that existed between Buckner and Hall; I never was in either of their houses.

16th. Witness answers and says: I know nothing further except as hereinbefore set forth.

F. F. MONTGOMERY.

Sworn to and subscribed before me this 2nd of Oct., A. D. 1885.
[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

408 Cross-examined:

X 1st. Witness answers and says: I have not stated that any one was put forth by Jno. A. Buckner to bid at the sale of the Mounds plantation, as is enquired in this interrogatory, and this is a sufficient answer to X Int. 2nd and 3rd.

F. F. MONTGOMERY.

Sworn and subscribed before me this the 2nd day of October, 1885.
[L. S.] CHARLES R. EGELLY,
U. S. Commissioner.

409 *Certificate.*

I, Chas. R. Egelly, a commissioner of the circuit court of the United States in and for the fifth circuit of the western district of *of* Louisiana, duly commissioned and qualified, do hereby certify that the foregoing pages from 1 to —, contain the true answers of

the witnesses which *was* reduced to writing by me at my office in the town of Lake Providence, Louisiana, on the days and dates mentioned therein and between the hours mentioned herein, and all alterations or erasures were made by me before first obtaining their signatures, and that the depositions as written by me were carefully read over to the said witnesses before they signed same.

In testimony whereof I have hereunto signed these presents and affixed my official seal, at my office, in the town of Lake Providence, Louisiana, this 2nd of Oct., A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

410 U. S. Circuit Court, Western District of La. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

To the hon'l the judges of the circuit court:

The complainants respectfully show that the testimony of Field F. Montgomery and E. J. Delony, competent witnesses, residing in the parish of East Carroll and State of Louisiana, is necessary and material to the trial of this cause.

Wherefore, the premises considered, they pray for a commission directed to any judge, justice of the peace, or notary public or other competent person residing in the said parish of East Carroll, commanding him to take the testimony of said witnesses according to law, and to make due return thereof to this hon. court on or before the first Monday of October next, and that defendants have due notice.

They propound the following interrogatories:

Int. 1st. Did you know William D. (or B.) King, who died in the parish of East Carroll and State of Louisiana in the year 1872?

Int. 2nd. Who administered the succession of said King after his death, and where was said succession opened and administered?

411 Int. 3d. Was the said King, at the time of his death, indebted to you, or either or both of you, in any sum? If yea, please state what sum and *and* for what cause, stating explicitly and in detail the origin, date, and amount of the indebtedness.

Int'y 4th. Did you know Mrs. Leonora Hall, wife of Ben. E. Hall, late of said parish?

Int'y 5th. If yea, please state how the said Mrs. Leonora Hall was related to the defendant, John A. Buckner.

Int'y 6th. Please state, if you can, who generally counseled and advised the said Mrs. Leonora Hall in her business affairs.

Int'y 7th. On what plantation did said Mrs. Leonora Hall reside and on what plantation did said John A. Buckner reside, and what was the distance from one plantation to the other?

Int'y 8th. Did you know Ben. E. Hall, husband of said Mrs. Leonora Hall? If yea, please state if he owned or possessed any prop-

erty of his own, either in the State of Louisiana or elsewhere. Please state his ability and capacity for business. Please state, if you can, who administered the separate property of said Mrs. Leonora Hall, herself or her husband.

412 Int'y 9th. Do you know the defendant, John A. Buckner; if yea, how long have you known him? Has he, during the time that you have known him, owned and possessed any property in his own right; and, if so, how much? Please state his ability and capacity for business.

Int. 10th. Do you know anything of the transaction by which the heirs of King sold and conveyed the undivided half of the Mounds plantation to Mrs. Leonora Hall? If yea, please state all that you know about said transaction. Please say, if you can, who acted for said Mrs. Leonora Hall, negotiated the sale, and paid the price.

Int. 11th. Has the debt due by the succession of King to you or to the law firm of Montgomery and Delony ever been paid; and, if yea, by whom and at what time was such payment made?

Int. 12th. Were any proceedings taken by you to compel payment; and, if yea, at what time were such proceedings instituted, and against whom directed?

Int. 13th. Please state fully, explicitly, and in detail the terms of the agreement of compromise by which the dis-olution of the injunction sued out by you against the sale of the "Mounds" plantation at the suit of John A. Buckner and T. L. Airey & Co. was

413 obtained; how much money was paid to you, by whom was it paid, at what time, and for what consideration.

Int'y 14th. Who was in possession of the Mounds plantation from the time of the institution of the suit and suing of the injunction by the law firm of Montgomery and Delony to the final compromise of the suit and dis-olution of the injunction? W-o received the fruits and rents and revenues of the property during that period? Did John A. Buckner have any possession or control of the "Mounds" plantation during that period, or cultivate the plantation or receive the fruits and rents and revenues thereof; and if yea, in what capacity?

Int'y 15th. Who was the sheriff of the parish at the time of the seizure and where is he now? Who was the deputy who made the seizure and where is he now? Did said sheriff during the said period take an actual possession of the Mounds plantation and lease it or cultivate it or otherwise administer it?

Int. 16th. What were the rents and revenues of the "Mounds" plantation usually worth during said period? For how much would said plantation have rented at an annual rent? Would said plantation have rented for $6,000 per year? Could it have been rented for $5,000 a year? Could it have been rented for $4,000 a year? Could it have been rented for $3,000 a year?

414 Int. 17th. [What] was the value of said "Mounds" plantation at the time of the sale and adjudication to John A. Buckner? Who was in possession of said plantation and cultivating it at said time, and how long had he been in possession?

Int'y 18th. Who was the sheriff or deputy sheriff who made the

first offering of said plantation, and where was the sale made? Was it made on the premsies or at the court-house? Where is such sheriff or deputy sheriff who made such offering?

Int. 19th. What was the highest price bid at the first offering, and by whom was the bid made? What was the next highest price bid at the first offering, and by whom and for whose account was the bid made? Was the defendant, John A. Buckner, present at said offering, and did he bid for said property or induce any one else to bid therefor; if yea, who was such person? Did such person pay the price of the bid; and, if not, why not? Did such bid have any effect on the sale of the property; and, if so, what effect?

Int. 20th. Where is the defendant, Ben. E. Hall, now? Has he now, or had he at the time of the institution of this suit, any domicil or residence in the State of Louisiana or any property, real or personal, or rights or credits in said State?

415 Int. 21st. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

WADE R. YOUNG, *Solicitor.*

A true copy.
Attest:
[L. S.] J. B. BEATTY, *D'y Cl'k.*

The defendant, John A. Buckner, reserves all legal objections to the testimony sought to be obtained by within interrogatories.

LUDELING & STILLMAN, *Atty's.*

416 * UNITED STATES OF AMERICA.

STATE OF LOUISIANA,
Parish of East Carroll, Town of Providence:

In the United States Circuit Court for the Western District of Louisiana.

In the Matter of HEIRS OF W. D. KING
vs.
BEN. E. HALL, Administrator, *et als.* } No. 94.

Depositions of Field F. Montgomery and E. J. Delony, witnesses for plaintiffs, taken before Chas. R. Egelly, U. S. commissioner and a special commissioner, to be read in evidence on the trial of said cause.

Be it known on this the 30th day of July, A. D. 1885, by virtue of a commission issued from the fifth circuit court of the United States in and for the western district of La. and to me directed, and dated at the city of Monroe on the 3d day of July, A. D. 1885, which commission is annexed hereto and made a part hereof, directing and

authorizing me to cause to appear before me Messrs. Field F. Montgomery and E. J. Delony, residing at Lake Providence, in the parish of East Carroll, La., witnesses for the plaintiffs in said cause, to be by me examined on oath touching and concerning certain matters and things in a case now pending in the said court, wherein the heirs of W. D. King are plaintiffs and Ben. E. Hall, adm'r, *et als.* are defendants, I, Chas. R. Egelly, United States commissioner in and for the western district of Louisiana, duly commissioned and qualified, and of a special commission hereinbefore stated, duly *supeaned* the witnesses, Field F. Montgomery and E. J. Delony, to appear before me at my office, in the town of Lake Providence, parish of East Carroll, La., at 10 o'clock a. m., and on said day the witness, Field F. Montgomery, appearing, I administered to him an oath in due form of law that he would testify to the truth, the whole truth, and nothing but the truth. I then reduced to writing in words and figures his answer to the following interrogatories which I propounded to him, and to which he answered as follows:

417

To int. 1st witness answers and says: I did.

Int. 2nd. It was opened and administered in the parish of East Carroll, and Ben. E. Hall was the curator.

Int. 3d. He was to the amount of eight hundred and thirty-nine $\frac{25}{100}$ dollars, due the law firm of Montgomery and Delony for legal services; cannot remember the exact amount and date.

Int. 4th. I was slightly acquainted with her.

Int. 5th. I think she was the sister of John A. Buckner.

Int. 6th. My acquaintance with her was not sufficient to enable me to answer this interrogatory.

418

Int. 7th. At the time of the decease of Mrs. Hall she resided on the "Mounds" plantation. John A. Buckner resided on the Saure Terre plantation, about one mile distant from the "Mounds" place.

Int. 8th. I did. I think he did not own or possess any property of his own, either in the State of Louisiana or elsewhere. My impression is that his capacity for business was fair, he having been a merchant, but he was rather negligent in attending to his business affairs. My acquaintance with Mrs. Hall was very slight. I never visited her house, and cannot say who administered the seperate property.

Int. 9th. I do. Have known him for 20 years or more. I think he owned considerable property in his own right, among which, I think, the "Melbourn" and "Waverly" plantations, in this parish, and the "Mounds" plantation, which he claims under a tax title. The records of the parish of East Carroll will show the facts. His capacity for business I consider first rate.

Int. 10th. I have no knowledge of the transaction except what the records of the parish of East Carroll show. I have no idea who acted for Mrs. Hall, negotiated the sale, or paid the price. I know nothing of the transaction.

419

Int. 11th. King owed the law firm of Montgomery and Delony for legal services rendered during his lifetime eight hundred and thirty-nine $\frac{25}{100}$ dollars; that debt was acknowledged

by Ben. E. Hall, administrator of the succession of W. D. King, and paid by said Hall some three or four years ago. The succession of King was indebted unto Montgomery and Delony an additional sum of about twelve hundred dollars for legal services rendered the succession, administered by Ben. E. Hall; that debt was paid by the administrator, Ben. E. Hall, to us in the spring of 1884.

[On margin:] See amended answer at the end of the depositions of F. F. Montgomery.

Int. 12th. On June 28th, 1880, Montgomery and Delony filed suit against Ben. E. Hall for the legal services rendered him as administrator for twelve hundred dollars, and on July 13, '80, said firm filed a rule on said Hall, administrator, to force him to sell property to pay the claim acknowledged by him for legal services rendered W. D. King; that claim, which I fix by reference to the proceedings in the case, amounted [to] $839.25 *dollars.*

Int. 13*d*. Both of the claims due to Montgomery and Delony were paid in full by Ben. E. Hall, administrator, and, as there seemed to be no other creditors of W. D. King or his succession, there
420 was no object in longer prolonging the litigation. We therefore consented to the discontinuance of the suits, or rather to the dissolution of the injunction. The payment was made in the spring of 1884.

Int. 14th. I think the sheriff was in possession of the Mounds plantation seized in the suit of T. L. Airey & Co. at the time the suit of Montgomery and Delony was instituted; how long he remained in possession I cannot say, but I think that some time after the institution of our suit the property was sold at tax sale and bought in by John A. Buckner. I do not remember the exact date, but think it was [a] few months after the institution of the injunction suit. From that time my information is that John A. Buckner has had possession and control of the "Mounds" plantation, and received the fruits and revenues as owner under the tax sale.

Int. 15th. M. S. Powell was sheriff at the time of the seizure; cannot say where he is now. I do not know the deputy who made the seizure; perhaps it was A. G. Belden; if so, he is now residing here. I have no knowledge as to whether he took actual possession or not of the "Mounds" place.

421 Int. 16th. I have no acquaintance with the Mounds plantation, never having been on it in my life. I do not know what the rents and revenues were worth. I should judge the place would bring an annual rental of four thousand dollars; perhaps more. This is from information derived from others in reference to said plantation.

Int. 17th. My information is that John A. Buckner was in possession from the time he purchased at the tax sale. I think, at the time of the adjudication to Jno. A. Buckner, the place was worth $20,000, twenty thousand dollars.

Int. 18th. M. S. Powell, sheriff in person, made the first offering at the court-house door in the town of Providence, La. I cannot say

where the said Powell is now. I do not think he is about here at present.

Int. 19th. My recol-ection is that Ben. E. Hall was the highest bidder at the price of $31,500.00, thirty-one thousand five hundred dollars. The nex- highest bid was that of —— Stiles, who bid for S. L. Graham, an amount very near as much as Hall's bid; the exact amount I do not remember. In fact, I am not sure but what Graham's bid was $31,500.00 and Hall's a little over that. John A. Buck-
422 ner was present. I was not present at the offering, but was near by at my office, and what I know about it I derived from Buckner & Hall and Stiles and Powell, sheriff. W. G. Wyly, att'y for T. L. Airey & Co., ordered the sheriff to suspend the sale after the bidding, Ben. E. Hall having failed to pay the amount of his bid. The sheriff advised with me as to what he should do in the matter, and hence I derived the information herein stated as to the bids. I do not know whether John A. Buckner induced any one to bid or not. I suppose Hall did not pay the price of his bid for the reason that he did not have the money. I know that he was an impecunious man. Besides the bid was largely over the real value of the property. The effect of his failure to pay the amount of his bid in connection with the action of W. G. Wyly, att'y for T. L. Airey & Co., in ordering the sale postponed was to prevent *at* sale of the property at that time.

20th Int. I understand he is at Rockbridge, Illinois. He has no domicile or residence in the State of Louisiana, nor had he any at the time of the institution of this suit that I know of, nor has he any property, real or personal, rights, or credits, in this State,
423 nor had he at the time of the institution of this suit.

Int. 21st. I do not think of anything of interest to either of the parties to this suit, having stated all I know in my foregoing answers to the interrogatories.

F. F. MONTGOMERY.

Sworn to and subscribed before me on this the 30th day of July, A. D. 1885; and I do hereby certify that the answers made by the witness, F. F. Montgomery, commencing on page — to page —, inclusive, are the true answers reduced to writing by me, and that all erasures and interlineations were made before first obtaining the signature of said witness.

[L. S.] CHAS. R. EGELLY,
Commissioner.

[Written on the margin:] In at and certificate.

Being unable to secure the attendance of the witness, E. J. Delony, in consequence of his illness, the further taking of testimony in this case was postponed until Saturday, the 1st day of August, 1885, at 10 o'clock a. m.

[L. S.] CHAS. R. EGELLY,
Commissioner.

Amended Answer of F. F. Montgomery to Interrogatory 11, *on page* —.

On reflection, I think the claim due to Montgomery and Delony of twelve hundred dollars was paid to us by M. S. Powell,
424 sheriff, under the direction of W. G. Wyly, att'y for Ben. E. Hall, administrator of W. D. King'- succession.

[L. S.] F. F. MONTGOMERY.

I attach hereto certified copies of the receipts, marked "A." See last pages which form a part of my answers relative to the payment of these claims.

CHAS. R. EGELLY, *Com.*

Sworn to and subscribed before me this 1st day of August, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
Commissioner.

"A."

Certified Copy of Amount to be Annexed to Deposition of E. J. Delony in Answer to Interrogatory 3.

Parish Court.

Succession of W. D. King to Montgomery and Delony.

[On margin:] Filed in evidence Aug. 1, '85. Chas. R. Egelly, U. S. commissioner.

1877.

Nov. 1st. For legal services and advice in following cases, $1,250.00:

W. D. King and Co. *vs.* I. W. Hays.
" " Chas. Davis.
" " Jerry Blackburn.
" " Jake Wall.
" " A. C. Ruth.
" " Henderson Griffin.
" " W. M. Benton.
" " H. Griffin.
" " E. I Brown.
" " Tony Stewart, Sr.
" " " " Jr.
" " R. T. and W. B. Keen.
" " Est. A. Prentiss.
" " Thos. Morgan.
" " Willis Jackson.
" " Tim. Walker.
" " Job Blackburn.
425 " " Booker and Babtiste.
" " Andrew Wyly.
" " James Brown.
" " Mose Willis.

W. D. King and Co. *vs.* Harrison Walker.
" " " Williams.
" " Wm. Hogan.
" " Cesar Johnson.
" " Pompey Haney.
" " Finias Madison.
" " Tyler Thompson.
" " Amos Alexander.
" " Dan'l Proctor.
" " Jake Hall.
" " Geo. Cummings.
" " Dan'l Willis.
" " Moses Carr.
" " Andrew Page.
" " Addison Walker.
" " Esop Kinny.
" " Irwin Gates.
" " Alex. Horton.
" " Tom. Coleman.
" " Mose Green.
" " Richard Stewart.
" " Wossman and Gilford.
" " I. F. Webb.
" " Albert Harvey.
" " McAllister *vs.* Tax Collector.
" " Bullock.
" " Fosmark.
" " R. T. Keen—

426 And in matter of title and purchase of Mounds plantation.

1877.

Dec. 31st. By amount of Montgomery and Delony's account	$410 75
Balance due	839 25

Endorsed: A. Suc. of W. D. King to Montgomery & Delony. I acknowledge the within account to be correct, to be paid in due course of administration, with 8% int. from 1st. January, 1880. Ben. E. Hall, adm'r. Dec. 31st, '80. Filed July 13, '80. S. D. Oliver, d'y clerk.

A true copy of the original.

August 1st, '85.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

SATURDAY, *August 1st*, '85.

Met this day at 10 o'clock a. m., pursuant to adjournment, and the witness, E. J. Delony, appearing, I administered the oath to him in due form of law and reduced to writing his answers *seriatim* to the interrogatories in words and figures, to wit:

Int. 1st. Witness answers and says: I did not know him intimately.

Int. 2nd. The succession was opened in the parish of East Carroll, and administered by Ben. E. Hall.

427 Int. 3rd. The firm of W. D. King & Co., composed of W. D. King and, I think, Ben. E. Hall or Mrs. Eleonora Hall, were indebted to the legal firm of Montgomery and Delony, of which I was a member, at the time of King's death in the sum of $839.25 *doll's* for legal services rendered in the prosecution and defence of a large number of cases in the parish and district courts. These services were rendered from time to time during 2 or 3 years before King's death, as shown by the itemized bill duly recognized by Ben. E. Hall, administrator, an itemized copy of which is annexed hereto, marked "A," and made part of this answer.

Int. 4th. I did; very well.

Int. 5th. She was the sister of John A. Buckner.

Int. 6th. My understanding was that she was advised principally by John A. Buckner, but cannot say positively. She may have advised with her husband also.

Int. 7th. At the time of Mrs. Hall's death, and probably a year or two previous thereto, John A. Buckner lived upon the Saure Terre plantation, and Mrs. Hall lived upon the Mounds plantation; the two plantations were about 1½ miles apart.

428 Int. 8th. I knew Ben. E. Hall, the husband of Mrs. Eleonora Hall, and am quite sure he owned no property in this State or elsewhere. I think I have heard him say so. I believed his ability and capacity for business was very poor. I regarded him as a very weak man. I cannot say who administered the seperate property of Mrs. Hall. I knew very little about their business outside of the succession of King.

Int. 9th. I know the defendant, John A. Buckner, very well, and have known him a long number of years—at least twenty. He owned a large plantation in this parish, and, I have always understood, also a large plantation in Concordia. I have always regarded him as an able and shrewd business man, and do not think there is a better one in the country.

Int. 10th. My understanding of the transaction in which the heirs of King conveyed their undivided one-half interest in the Mounds plantation was for the sum of $5,000.00, five thousand dollars, payable partly in cash and partly in notes—cannot say to what

429 amounts—and Mrs. Hall assumed and agreed to pay all the debts against the succession of W. D. King. I do not know who negotiated the sale and who paid the entire part of the price of the payment as represented by the cash and notes, although I have understood that the notes were taken up by John A. Buckner. This

matter was transacted by Buckner and Judge S. D. Farrar, the att'y for the King heirs.

Int. 11th. The debt due by the succession of King to Montgomery and Delony heretofore mentioned was paid, according to my recollection, by John A. Buckner. The payment was made to my law partner, F. F. Montgomery, and, I think, out of the proceeds of the sale of Lickskillet and probably some other property on Joe's bayou, although I cannot say positively, as the transaction occurred some time ago—in fact, several years ago. We also held another claim against the succession of King, for legal services rendered to the succession of King, to the amount of about twelve hundred dollars, which sum was paid by the sheriff upon the order, I think, of W. G. Wyly, then the attorney for the succession, out of the proceeds of the sale of what is known as the Manning place, the Lick-
430 skillet place, the Nash place, and probably some other places on Joe's bayou, in this parish, which property was not included in the transaction between the King heirs and Mrs. Eleonora Hall.

Int. 12th. Yes; proceedings were taken by suit for both claims. The one for $839.25 *dollars* by way of rule upon the administrator, Hall, to sell property to pay said debt, which was an acknowledged one, filed July 13th, 1880, and the claim for twelve hundred dollars by suit filed June 28th, 1880, asking judgment for the amount due.

Int. 13th. Our claims having been paid, we had no object in contemplating longer the injunction suit against the sale of the Mounds plantation. We were paid the whole amount of the $839.25 *doll's*, without interest, being the face value. I do not recollect the date of payment, though not long after the rendition of the judgment ordering the sale of property, rendered on the 11th day of December, 1880. The claim bore 8% interest from January 1st, 1880. The second was paid, I think, some time in 1884, principal and interest amounting, as well as I can remember, to nearly $1,400.00, four-
teen hundred dollars, the principal being $1,200.00 *doll's*, with
431 interest from June 28th, 1880, as near as I can remember.

Int. 14th. John A. Buckner purchased the whole of the Mounds plantation at tax sale on the 21st day of May, 1881, for the sum of $424.39 *dollars*, and has been in possession, I think, of said place from that date until this, and I suppose received the revenues during said time as owner thereof under said sale, as the sale, so far as I know, has never been set aside, our injunction suit, No. 328 on the docket of the 8th district court, being instituted principally for that purpose, having been discontinued, we having no further interest in carrying it on, having been paid our debt.

Int. 15th. The sheriff at the time of the seizure was M. S. Powell. His whereabouts at this time I have no knowledge of. If the seizure was made by a deputy I do not remember who. The return upon the writ of *fi. fa.* should show. I am quite sure that the sheriff did not take actual legal possession of the property—that is, the Mounds property—nor do I think he ever leased or cultivated said place or administered it in any manner. My recollection is that C. A. Hedrick, who was the manager for the place for John A. Buckner

or Eleonora E. Hall succession, administered by Ben. E. Hall. Hedrick resides in the county of Wood (town of Mineola), Texas.

432 Int. 16th. I think the rental value of the Mounds plantation, including the store building on said place, would be worth at least four thousand dollars p'r annum, and in my opinion could have been rented for that if it had been so desired.

Int 17th. I should say at least $32,000, thirty-two thousand dollars, that amount, I understand, having been bid for it in cash by Ben. E. Hall, and $31,500 *doll's* by Capt. Stiles, of New Orleans, agent for S. L. Graham, at the sale made under an order of seizure and *and* sale in suit of T. L. Airey and Co. *vs.* Mrs. Eleonora Hall; this is the style of the suit as well as I remember; the bid of $31,500 *doll's* may have been made by J. M. Kennedy, whom I understood was present assisting Mr. Stiles.

Int. 18th. If the property was sold by the sheriff he was M. S. Powell, whose whereabouts, as I have heretofore stated, I do not know; if by a deputy sheriff I cannot say who it was, though whoever he was they are still residing here, except G. W. Foster, who is now deceased.

Int. 19th. The sale that I have reference to in my answer to inter-ogatory 17 was not made, according to my recol-ection, in

433 a suit in which John A. Buckner was a defendant, though he may have been; my recollection is that either it was Mrs. Eleonora Hall or the succession of Mrs. Hall; the suit itself will show. The bid for $31,500 *doll's* was made, as I understood, by Stiles, who stated that he had the money to pay down cash. The last bid of $32,000 *doll's*, made by Ben. E. Hall and under which it was adjudicated to him, he failed to make good; whereupon, I understand, the writ was ordered returned by W. G. Wyly, I suppose, attorney for the plaintiff, and the sale was not made, notwithstanding the fact that the bid for $31,500 *doll's*, being largely in excess of the Airey and Co. debt for which the order of seizure and sale was taken at least to the amount of ten thousand dollars. What the effect of this sale was upon the property I cannot say, no- can I say why the writ was returned when so large a cash bid had been made upon the property by a person who stated that he had the cash on hand to pay for it. I make these statements as to that sale not as positive; those who were taking part in the matter can state more fully and correctly.

Int. 20th. Ben. E. Hall, I understand, lives at Rockbridge, Illinois. He has been absent for some time; at least two years, I think.

He had no domicile in this State at the time of the institution

434 of this suit or since that I am aware of, nor did he then or now, that I know of, own any property of any kind, real or personal, rights, or credits in the State of Louisiana.

Int. 21st. I know nothing more about this matter that I can now remember. Many of the transactions out of which this suit has grown occurred a long time ago, and to give a full history of the *of the* whole affair I would have to go through the records and make minute examination of all the transactions, which I am too feeble to do at this time. My understanding and belief is that when the

King half of the "Mounds" plantation was purchased by Mrs. Eleonora Hall of the King heirs it was a verbal agreement, if not written, that all the debts of King should be paid by Mrs. Hall as a part of the purchase price, and I have heard that all were paid except the debts due to Montgomery and Delony, and why they were not paid I cannot say. My understanding was that the King heirs expected by their transaction with Mrs. Hall to retain all the Joe's bayou and Teusas property belonging to the succession of King free and unincumbered, but Montgomery and Delony claimed that the succession of King could not be divested of the property belonging to it until
the debts were paid, unless sold to pay debts, and so it was im-
435 material to us as to what property of the succession was sold for the purpose of paying said debts. There is no doubt in my mind that if the Mounds property had been allowed to sell at the amount bid by Stiles for Grahmor, Graham, Black and Co. our debt would have been easily paid, the debt of T. L. Airey & Co., or the debt which purported to belong to them in full, with interest, and a goodly sum of money been left to the legal representatives of the succession of Mrs. Hall, and all of the Joe's bayou property would have been left to the heirs of the King [succession] unincumbered, and therefore I never could see the reason why the writ in the Airey suit was ordered returned, and the property ordered to be sold at that time. Hall was a man without means, and I am satisfied he had no idea of paying the bid at the time he made it, and it was only done to prevent the property being sold to any one except John A. Buckner, who had several bids before, as I understand, and was not opposed by Mrs. Hall, who had not bid upon the property until it was about to be struck off and adjudicated to the bid of $31,500/00 *doll's*. This, of course, is a matter of opinion and conclusion derived at by me from transactions which I understood to have been made at the time the sale was being made, in the way
of consultations between Buckner, Judge Wyly, and Mr.
436 Hall, and the act ordering the writ returned after Hall failed to pay his bid. I cannot speak of my own knowledge as to these conversations and transactions, but only from representations made to me by Sheriff—Deputy Sheriff—A. G. Belden, Capt. Stiles, and Mr. J. M. Kenedy, who were present at the sale during the bidding.

And further deponent saith not.

[L. S.] E. J. DELONY.

Sworn to and subscribed before me on this the 1st day of August, A. D. 1885, and I do hereby certify that the answers of the witness, E. J. Delony, to the inter-ogatories herein are the true answers made by him and reduced to writing by me, and that the erasures and corrections were made by me at his instance before first obtaining his signature to the answers on the several pages herein.

In testimony whereof I have signed this my process verbal at my office in the town of Lake Providence, La., on this the 1st day of August, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

Voucher No. 25.

Rec'd June 4th, 1881, of Ben. E. Hall, adm'r of W. D. King's succession, the sum of nine hundred and twenty-eight $\frac{77}{100}$ dollars, am't, principal and interest due us on acknowledged claim against said succession.

$928.77. S. D. on La. National Bank.

MONTGOMERY AND DELONY.

437 *Voucher No.* 30.

Succession [of] W. D. King to Montgomery and Delony *to* legal services and advice in opening and conducting said succession	$1,000.00
Legal services in following suits:	
Ben. E. Hall, adm'r, *vs.* A. G. Forswick Narcissa Mershon *vs.* Suc. — W. D. King R. T. D. Hays *vs.* Ben. E. Hall, curator	200.00
	$1,200.00

Filed as part of answer of F. F. Montgomery to inter-ogatory 11 and other inter-ogatories on same subject-matter.

CHAS. R. EGELLY,
U. S. Commissioner.

Endorsed: The within account is acknowledged to be paid in due course of administration with 8% int. from Jan'y 1st, A. D. 1880 Ben. E. Hall, curator of succession of W. D. King. Dec. 31st, 1879

Received of Ben. E. Hall, curator of the succession of W. D. King, fourteen hundred and twenty-five dollars, the amount of the claim of Field F. Montgomery and E. J. Delony in suit No. 115, styled Field F. Montgomery and E. J. Delony *vs.* Ben. E. Hall, curator, said claim being for professional services, as will appear by reference to said suit, which claim is acknowledged as a just and valid claim against the succession of W. D. King, and said suit is to be discontinued, the above payment being in full satisfaction of said claim. Dated March 14th, 1884.

E. J. DELONY.
F. F. MONTGOMERY.

I certify that the above and foregoing are true and correct copies of vouchers Nos. 25 and 30, filed with the provisional account of Ben. E. Hall, curator of the succession of W. D. King, and
438 that said vouchers are now on file in my office with the papers pertaining to said succession.

Witness my hand and seal of office, at Lake Providence, La., on this the 8th day of August, A. D. 1885.

[L. S.]

WM. ROUS,
Clerk 8th District Court.

Rec'd in office, opened, and filed August 11th, 1885.
J. B. BEATTIE, *D'y Cl'k.*

438½ Circuit Court of the United States of America, Fifth Circuit and Western District of Louisiana, Holding Sessions in the City of Monroe, Louisiana.

To Mr. Chas. R. Egelly, Lake Providence, East Carroll parish, Louisiana:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Mess. Field F. Montgomery and E. J. Delony, of Lake Providence, East Carroll parish, Louisiana, and them duly examine on the annexed interrogatories on oath touching and concerning certain matters and things in a case now pending in the said court, wherein heirs of W. D. King are plaintiffs and Ben. E. Hall, administrator, *et als.* are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal and send enclosed to this court on or before October 5th, 1885, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Monroe, La., this 3rd day of July, in the year of our Lord 1885, and of the Independence of the United States of America the 109th.

[L. S.] J. B. BEATTIE,
D'y Clerk.

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, administrator, *et als.* Commission.

439 EXHIBIT III.

Complainants' Evidence.

UNITED STATES OF AMERICA.

STATE OF MISSISSIPPI,
County of Copiah, Town of Hazlehurst:

In the United States Circuit Court for the Western District of Louisiana.

In the Matter of HEIRS OF W. D. KING
vs.
BEN. E. HALL, Administrater, *et al.* } No. 14.

Depositions of Mrs. Elizabeth Norman and Miss Eunice King, witnesses for plaintiffs, taken before James Sexton, U. S. commissioner, to be read in evidence in the trial of said cause.

Be it known and remembered that on the 27th day of August, 1885, by virtue of a commission issued from the fifth circuit court of the United States in and for the western district of La., to me

directed, and dated at the city of Monroe on the 3d day of July, 1885, which commission is annexed hereto and made a part hereof, directining and authorizing me to cause to appear before me Elizebeth Norman and Miss Eunice King, residing at Hazlehurst, in Copiah county, Miss., witnesses for the plaintiffs in said cause, to be by me examined on outh touching and concerning certain matters and thing- in a cause now pending in the said court, wherein
440 the heirs of W. D. King are plaintiffs and Ben E. Hall, administrater, *et als.* defendants *and*—

I, James Sexton, U. S. commissioner, by virtue of a commission issued as aforesaid, and attached as aforesaid, caused the said Mrs. Elizabeth Norman and Miss Eunice King to appear before me in the town of Hazlehurst, at 10 o'clock a. m., on the morning of the 27th of Aug., 1885, and on said day the witness, Mrs. Elizibeth Norman, appearing, I administered to her, an oath, in due form of law, that she would testify to the truth, the whole truth, and nothing but the truth. I then reduced to writing *seriatim*, in words and figures, her answer to the following inter-ogatories which I propounded to her, and to which she answered as follows:

To Int. 1st. Witness, answering, says: I am the sister of W. D. King, deceased.

To Int. 2d. He died in the parish of East Carroll and State of La. in the year 1877, on or about the 25th of September.

To Int. 3d. Ben. E. Hall, then residing in said Parish and State, was appointed administrater of his succession.

To Int 4th. My sister, E. H. King, and myself are his next of kin and heirs-at-law.

To Int. 5th. The property and effects consisted, *of* will ap-
441 pear by the inventory of his succession, of an undivided half interest in the Mounds plantation, in said parish and State, and in the store on said plantation, and accounts, notes, bills receivable, and other credits belonging to the business belonging to said store, and in certain mules, horses and cattle on said plantation, and in certain lands known as the Lick Skillet tract, and an entire interest in two small pieces [of] land known to us as the Nash tract and Cable tract, and an entire interest in certain horses, cattle, &c., that were kept on the Manning tract, or in the neighborhood thereof.

To Int. 6th. The deceased owned the Mound plantation jointly with Mrs. E. E. Hall, wife of Ben. E. Hall, as also the store fixtures, books of accounts, and notes and credits belonging to said store, and certain mules, horses, and cattle on said Mounds plantation. He owned, jointly with E. J. Déloney, the Lick Skillet place, and jointly with a man by the name of Angel the Swan Lake or Manning tracts.

To Int. 7th. The act of sale and conveyance will show that the heirs sold and conveyed to Mrs. Eleonora E. Hall (the wife of Ben. E. Hall), the undivided half interest of W. D. King, deceased, in the Mounds plantation and the store thereon, notes, accounts,
442 and all credits belonging to said store, and all his interest in the live stock, out of which sale was reserved all the lands in

which he owned an interest. I am informed that Ben. E. Hall has sold the lands that we did not sell to Mrs. E. E. Hall to pay debts of the succession.

To Int. 8th. I know of no widow connected with this transaction. Mr. Ben. E. Hall, the ad'mr, came to see us in Hazlehurst, Miss., and we sold to him, but made the deed, or rather executed a power of att'y, to a man in New Orleans, La., to make a deed to Mrs. E. E. Hall. Mrs. Hall gave her notes for the amount of the purchase that was to be paid in money to the heirs of Jno. A. Buckner; paid the notes on the 19th of May, 1880, paying the interest on the note that fell due Jan. 1st, 1881; these notes were secured by him on the land sold Mrs. Hall.

To Int. 9th. I do not understand Mrs. E. E. Hall to have been a widow, but the wife of Ben. E. Hall, the adm'r of W. D. King's estate, and sister of John A. Buckner.

To Int. 10th. Of the purchase price agreed to be paid only $5,000.00 has been paid in the way stated in answer to Int. 8th. The rest of the price—that is the debts of the succession of W. D. King agreed and undertaken to be paid by the vender—
443 was never paid, in so far as I know, unless, as I am advised and informed by my attorney, it was paid to Montgomery and Deloney to obtain the dissolution of the injunction sued out by them against the sale of the Mounds plantation at the suit of T. L. Airey & Co. and John A. Buckner.

To Int. 11th. I do not know what the debts were due by the deceased, but it was distinctly understood and agreed as the act of sale *receipts*, that all the debts of the succession were to be paid by Eleonora E. Hall, vendee.

To Int. 12th. Not that I know of, except as before stated.

To Int. 13th. All the property described in the inventory, except that conveyed to Eleonora E. Hall, and especially the lands described as wild lands, were reserved by his heirs.

To Int. 14th. At the time of his death his heirs resided and still reside in the county of Copiah and State of Mississippi.

To Int. 15th. No one of said heirs has ever resided in the State of Louisiana.

To Int. 16th. The heirs paid the taxes on the lands reserved by them until 1884, amounting to $152.36, for which we hold
444 the several tax collectors' receipts. The land was forfeited for the tax of 1880, and we paid the sum of $122.50 to redeem the same, making in all $274.86 which we expended on said lands for taxes. We then brought suit to recover the lands and paid $1,200.00, as appears from the papers in said suit. We again paid taxes on these lands until we heard that they had again been sold and adjudicated to Waden Newman. Hall, as adm'r of the succession, was pressed to render an act. of his administration, and instead of so doing he pressed the sale of the property restored to the heirs on their paying $1,200.00 to the purchasers.

To Int. 17th. The interest of the deceased in the crop growing on the Mounds plantation at the time of his death was taken by Ben.

E. Hall as administrator. He gathered and ship-ed and sold the crop and never rendered any account of it, so far as I know.

To Int. 18th. I do not know what disposition was made of the personal property other than that sold and conveyed to Eleonora Hall. It was taken by Ben. E. Hall, administrator, and if any account of it has been rendered by him I don't know it. I
445 understood that Hall was pressed to render an account of his administration and ordered by the court to render an account of his administration, but instead of obeying the order he sold the property reserved by the heirs under a pretense that there were debts due and unpaid. All this, I suppose, is a matter of record.

To Int. 19th. I never was notified, either directly or indirectly, by Ben. E. Hall, administrator, or any attorney acting as counsel for absent heirs, that there were debts due and unpaid by the succession, and that unless money was furnished to pay such debts the remaining property of the succession could be sold. On the contrary, I thought that there were no debts due by the succession, as Eleonora E. Hall had agreed and undertaken to pay them as a part of the price of the Mounds plantation.

To Int. 20th. Neither Eleonora E. Hall during her lifetime, nor her husband, Ben. E. Hall, her executor after her death, nor John A. Buckner ever notified me that said Eleonora E. Hall during her life and her succession after her death, as vendee of the undivided half interest of the Mounds plantation, would be unable from
446 insolvency or otherwise to comply with the obligation entered into by the said Eleonora E. Hall in the contract of sale to pay and satisfy the debts of the succession of W. D. King.

[To] Int. 21st. I was first informed of the sale of the lands reserved by the heirs in Dec., 1881, and a suit was brought to recover the lands. The sum of $1,200.00 was paid to the purchasers to reimburse the moneys paid by them to Ben. E. Hall, adm'r of the estate of W. D. King. Hall rec'd the money paid by the purchasers, and has never accounted for it, so far as I know. I knew nothing of the existence of the debts for which the lands were sold until after the sale was made, and, as I have before stated, thought the *the* debts of the succession of W. D. King had been paid by Mrs. Hall as per agreement in the contract of sale.

To Int. 22nd. I cannot answer this question satisfactorily, as Eleonora E. Hall assumed and undertook to pay all the debts of the succession of W. D. King. There should have been no debts to be paid. If there were such debts they should have been paid by the administrator from the moneys rec'd at the first sale of the lands, which were afterwards reimbursed to the purchasers. I have been informed
447 by my att'y, and upon such information believe that the debts due to Montgomery and Deloney by the succession of W. D. King, which Eleonora E. Hall assumed and agreed to pay, must have been paid at least twice before the last sale.

To Int. 23rd. The lands of the succession of W. D. King, which were reserved by the heirs, as I have been informed, were sold by Hall, administrator, to Isadore Newman.

To Int. 24th. After redeeming the lands from the first sale the

heirs of W. D. King were not notified by Ben. E. Hall, administrator, or said Ben. E. Hall, as executor of Eleonora E. Hall, or by any att'y acting as counsel for absent heirs, or by John A. Buckner, or any other person, whatsoever that after the payment of $1,200.00 made by them there were still debts due and unpaid by the succession, and that unless said debts were paid or money furnished for said purpose a sale of the property would be necessary. If they had been so notified the necessary money would have been furnished to prevent the sacrifice of the lands.

To Int. 25th. The heirs were informed or notified of the
448 sale of the lands so reserved and the adjudication thereof to Waden Newman by their present att'y some time after the sale had been made.

To Int. 26th. The heirs rec'd no communication from any person of the suit brought to subject the reserved lands to the payment of the debts of the succession of W. D. King, nor did they ever know that an att'y had been appointed by the court to represent their heirs until they examined the original papers in that suit immediately before and for the purpose of instituting this suit.

To Int. 27th. We valued the reserved lands at $12,000.00, and believe they were amply worth that amount.

To Int. 28th. The lands are very productive when cultivated, and at one time were nearly all in cultivation, but owing to the crevasse at Ashland and the precarious condition of the levees in Arkansas and Louisiana, the cultivation of most of the lands had been abandoned. The crevasse at Ashland had recently been closed, and the U. S. Government had undertaken the construction and maintainance of the levees; had closed all the crevasses from Ashland
449 down, and was apparently about to protect the entire basin from overflow. Under those circumstances it was manifest that the lands would soon be in demand and would have enhanced rapidly in value. The heirs had reserved the lands for these reasons and held them not at the price they would bring at a forced sale, but at what they considered their intrinsic value, and would not have parted with them for less than the price stated.

To I't 29th. The heirs sold the Mounds plantation and personal property to Mrs. Eleonora E. Hall at what the- considered a low price in order that they would be certainly secured in the peac-able possession of the lands reserved in the sale. Mr. Ben. E. Hall, the administrator, came to the heirs in Hazlehurst, Miss., and negotiated the purchase, but when we drew the agreement of the condition of which we would sell to him he had the name of his wife inserted as vendee, though the heirs had never had any communication with or known her in the transaction, and we had no thought of releasing Ben. E. Hall from a faithful administration of the property so sold, but thought it would be an incentive to an honest ad-
450 ministration in order to preserve the property sold to his wife. I note in the original papers that J. M. Kennedy was appointed curator *ad hoc* to represent the absent heirs in the petitions filed for the sale of the lands belonging to the heirs of W. D. King, and I desire to say that my post-office address was well known

To Int. 12th. I do not know.

to Mr. Kennedy, and he never gave me or my sister, Miss Eunice King, any notice of his appointment or that any steps were being taken to effect our interest. I desire to state furthermore that Mr. Kennedy had been interested as an att'y adversely to our interest and was inimical to the interest of the heirs of W. D. King as is shown by his letter to Judge E. D. Farrer, our attorney, dated March 8th, 1881, which is hereto attached, marked Ex. A, and made or asked to be made a part of my answer to this inter-ogatory.

ELIZABETH NORMAN.

Sworn and subscribed before me on the 27th day of Aug., 1885, and I do hereby certify that the answers made by the witness, Mrs. Elizabeth Norman, commencing on page to page —, inclusive, are the true answers reduced to writing by me, and that all erasures and interlineations were made before first obtaining the signature of said witness.

JAMES SEXTON,
Commissioner.

451 Miss Eunice H. King next appearing, I administered the oath to her in due form of law, and reduced to writing her answers *seriatim* to the inter-ogatories in words and figures following, to wit:

To Int. 1st witness, answering, says: I am the sister of W. D. King, deceased.

To Int. 2d. He died in Sept., 1877, in the parish of East Carroll, La.

To Int. 3d. Ben. E. Hall, residing in said parish and State, was appointed adm. of the succession.

To Int. 4th. Myself & my sister, Mrs. Elizabeth Norman.

To Int. 5th. In lands, live stock, and mercantile business and credits in said East Carroll parish, La.

To Int. 6th. He owned jointly with Mrs. E. E. Hall, wife of Ben. E. Hall, the Mounds plantation, the live stock (mules, horses, and cattle), the store and mercantile interest on said Mounds plantation.

To Int. 7th. The Mounds plantation and live stock, store, and mercantile interest was sold by the heirs to Mr. B. E. Hall, who had us to execute a deed to his wife, Mrs. E. E. Hall.

452 To Int. 8th. Mr. Ben. E. Hall negotiated the purchase. I do not know who paid the money, except through my brother-in-law, J. M. Norman, who acted for me, and said John A. Buckner paid the money that was paid.

To In. 9th. Ben. E. Hall was the husband and John A. Buckner the brother of Mrs. E. E. Hall.

To Int. 10th. The money consideration was paid, as I have stated, by John A. Buckner; the other consideration has not been complied with.

To Int. 11th. We were informed by Ben. E. Hall that [there] were debts due by the estate, and I understood that Mrs. E. E. Hall was to pay them as a part of the consideration of the purchase price of the Mounds plantation.

To Int. 13th. Yes; we reserved all the lands except an interest in the Mounds plantation.

To Int. 14th. In Copiah County, Miss., where they now reside.

To Int. 15th. No.

To Int. 16th. Yes; about $1,200.00, in Dec., 1881, to redeem the land which had been sold Hall, the adm., to pay debts of the estate.

453 To Int. 17th. I do not know. It was in the hands of Ben. E. Hall, adm'r. If he has rendered any account of it I do not know it.

To Int. 18th. I do not know. I do not know of the rendition of any account in this matter.

To Int. 19th. I had no notice or information from any one whatsoever on this point.

To Int. 20th. I had no notice whatever from any one, either legal or incidental.

To Int. 21st. In Nov. or Dec., 1884, when we were first notified of the sale.

To Int. 22nd. I do not know.

To Int. 23d. I understand they were sold to Waden Newman by Ben. E. Hall, adm.

To Int. 24th. I had no notice whatever from any one; was utterly ignorant of the facts, and lost the reserved lands for want of such notice.

To Int. 25th. By Col. Wade R. Young some time after the sale.

To Int. 26th. No; we received no notice or communication
454 from any person whatsoever of the appointment by the court of counsel for the absent heirs.

Int. 27th. I don't know; I suppose between $10,000.00 and $15,000.00.

To Int. 28th. The lands are very productive when cultivated, and we believed, as the U. S. Government had undertaken to repair the levees, the lands, when protected from overflow, would be very valuable, and we wished to hold them and get what we considered near their intrinsic value when we sold them, if we ever did sell.

To Int. 29th. When we sold the Mounds plantation and personal property to Mrs. E. E. Hall at what we considered a very low price, we did so in order that we should have no trouble about our claims on the reserved land. Mr. Hall came to see us in Hazlehurst and negotiated the trade, and had us make the deed or instrument of sale to his wife as vendee, though we had never communicated with Mrs. E. E. Hall, or had anything to do with her in the contract.

EUNICE H. KING.

Sworn to and subscribed before me on this the 27th day of
455 Aug., 1885; and I do hereby certify that the answer made by the witness, Miss Eunice H. King, commencing on page — and ending on page —, inclusive, are the true answers reduced to writing by me, and that all erasures and interlineations were made before first obtaining the signature of said witness.

JAMES SEXTON,
Commissioner.

In testimony whereof I have signed this my process verbal at my office in the town of Hazlehurst, Miss., on this the 27th day of August, 1885.

JAMES SEXTON,
U. S. Commissioner.

LAKE PROVIDENCE, LA., *March 8th*, 1881.

Judge E. D. Farrar, Vicksburg, Miss.

DEAR SIR: Your letter of the 1st inst., enclosing that of Mr. J. M. Norman of the 22nd of Feb. ult., reached me to-day. I reached home Saturday night, sick, and [am] yet in the bed, unable to answer your letter directly; will do so th-ough an amanuensas.

I regret that I cannot oppose the homoligations of the mo-
456 [ni]tions in the King succession, because, as I told you in New Orleans, I had sued them out. In regard to other matters, Mr. Norman made no provision for fees, and my former experience with him has tought me that this must first be secured beyond doubt.

I am quite sick, and will not be able to attend to my business at all this week, so that I expect it will be necessary for you to come up.

Resp't., J. M. KENNEDY.

Ex. A to Mrs. Elizabeth Norman's answer to the 29th inter-ogatory. Filed Aug. 27th, 1885.

JAMES SEXTON,
U. S. Commissioner.

Cost Bill of Commissioner James Sexton for Taking Depositions of Miss Eunice King and Mrs. Elizabeth Norman.

HEIRS OF W. D. KING *vs.* JOHN A. BUCKNER *et al.*

HAZLEHURST, MISS., *Aug. 27th*, '85.

To 1 day's service	$3 00
For reducing to writing the dipositions of Mrs. Norman and Miss King, 3,000 words, @ 20c. p'r hundred	6 00
To administe-ing 2 oaths	20
	$9 20

Paid by complainant.

JAMES SEXTON, *U. S. Com.*

457 U. S. Circuit Court, Western Dist. of Louisiana. In Equity.

HEIRS OF W. D. KING
v.
BEN. E. HALL, Admin'st., *et al.* } No 94.

To the hon. the judge of the circuit court:

The complainants respectfully show that the testimony — themselves, Eunice King and Mrs. Elizabeth King, wife of James M. Nor-

man, competent witnesses, residing in the county of Copiah and State of Mississippi, is necessary and material to the trial of the cause; wherefore they pray for a commission directed to any judge, or justice of the peace, or notary public, or other qualified person in the said county of Copiah and State of Mississippi, commanding him to take the testimony of said witnesses according to law, and to make due return thereof to this hon'l. court on or before the first Monday of October next, A. D. 1885, and that defendants have due notice.

They propounded the following interrogatories:

Int. 1st. Please state what relation you bore to the deceased, W. D. King.

Int. 2nd. Please state where & when he died.

Int. 3d. Please state who administered the succession of said William D. (or B.) King.

Int. 4th. Please state who were the next of kin and heirs-at-law of said King.

458 Int. 5th. Please state in what the property and effects of said King consisted.

Int. 6th. Please state if the said King owned any property jointly with any other person; and, if yea, who was such person and what property was so jointly owned?

Int. 7th. Please state what disposition was made of such joint property, or of the interest of the said King therein.

Int. 8th. Please state who represented and acted for the widow of the interest of said King in said joint property and negotiated the sale and paid the price.

Int. 9th. Please state what relation such person bore to the said widow.

Int. 10th. Please state if the purchase price of said interest of said King in said property has ever been paid — agreed to be paid; and, if not, how much has been paid and at what time, and how much is still unpaid.

Int. 11th. Please state if there were any debts due by said King at the time of his death; and, if yea, by whom said debts were understood to be paid.

Int. 12th. Please state if said debts have been paid as agreed and undertaken to be paid.

459 Int. 13th. Please state if any part of the property of said King was recovered by his heirs; and, if so, what part?

Int. 14th. Please state where such heirs were residing at the time of the death of said King, and where they reside now.

Int. 15th. Please state if said heirs, or any one of them, has resided in the State of Louisiana since the death of said King.

Int. 16th. Please state if said heirs have been compelled since the death of said King to pay out any moneys on account of the property recovered by them; and, if yea, how much, at what time, and under what circumstances.

Int. 17th. Please state what disposition was made of the interest of said King in the crop growing on the joint property at the time of his death, by whom said crop was gathered and shipped and sold, and what, if any, account was rendered of the proceeds.

Int. 18th. Please state what disposition was made of the personal property of said King owned by him at the time of his death other than that sold and conveyed by his heirs, as appears in the
460 deed to Mrs. Leonora Hall, wife of Ben. E. Hall; who recovered and disposed of said personal property, and what, if any, account was ever rendered of the same.

Int. 19th. Please state if you were at any time notified by Ben. E. Hall, admin'st. of said King, or by any att'y acting as counsel for absent heirs, that their debts, due and unpaid, by the succession, and that unless money was furnished by you for the purpose of paying said debts, a sale of the remaining property of said succession would be necessary.

Int. 20th. Please state if Mrs. Leonora Hall during her life, or her husband, Ben. E. Hall, as her executor, or said John a Buckner, ever notified you that said Leonora Hall, as widow, and her succession after her death, would be unable from insolvency or other cause to comply with the obligation of the contract of sale to said Leonora Hall by paying and satisfying such debts as might be due by said succession of King.

Int. 21st. Please state when you were first informed of the existence of such debts, and of the failure or refusal of said Leonora Hall, or of said Ben. E. Hall, as her exec't., to pay them.

Int. 22nd. Please state if such debts were paid; and, if so, by whom, and at what time.

Int. 23d. Please state what has become of the lands of the
461 succession of King which were recovered by his heirs after making provision for the payment of the debts of the succession.

Int. 24th. Please state if the heirs after redeeming said lands from the first sale were notified by said Ben. E. Hall, as admins't. of King, or executor of Leonora Hall, or by any attorney acting as counsel for absent heirs, or by said John A. Buckner, or by any other person whatsoever, that after the payment made by them there were still debts due and unpaid by the succession of King, and that unless such debts were paid or money furnished for such purpose a sale of the property would be necessary, and how they were injured by the abscence of such notice.

Int. 25th. Please state when and by whom the said heirs were first notified of the sale of the lands so recovered and the adjudication to Isidore Newman.

Int. 26. Please state if any one as counsel for the absent heirs of King has ever written to or communicated with such heirs, and if such heirs have ever been notified that there was such a person appointed by the court to look after their interests.

462 Int. 27th. Please state the value of the lands so recovered by the heirs of King after providing for the payment of the debts of the succession and afterwards sold by said Ben. E. Hall, admins't., and adjudicated to Isadore Newman?

Int. 28th. Please state why such lands were so valued by you, and what, if any, cause made it desirable to with-old them from the market.

Int. 29th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

WADE R. YOUNG, *Solicitor.*

A true copy.
Attest:
[L. S.] J. B. BEATTIE, *D'y Clk.*

The defendant, John A. Buckner, reserves all legal objections to the testimony sought to be obtained by the within inter-ogations.

LUDLING & STILLMAN, *Atty's.*

463 Circuit Court of the United States of America, Fifth Circuit and Western District of Louisiana, Holding Sessions in the City of Monroe, Louisiana.

To Mr. James Sexton Hazlehurst, Copiah county, Mississippi:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Eunice King and Mrs. Elizabeth King, wife of James M. Norman, of Hazlehurst, Copiah Co., Mississippi, and them duly examine on the annexed interrogatories on oath touching and concerning certain matters and things in a case now pending in the said court, wherein heirs of W. D. King are plaintiffs and Ben. E. Hall, administrator, *et als.* are defendants, and the same examinations, so taken and reduced to writing, you certify under your hand and seal and send enclosed to this court on or before October 5th, 1885, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Monroe, La., this 3d day of July, in the year of our Lord, 1885, and of the Independence of the United States of America the 109th.

[L. S.] J. B. BEATTIE,
D'y Clerk.

464 [Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, administrator, *et als.* Commission. Received in office, opened, and filed August 31st, 1885. J. B. Beattie. d'y cl'k.

465 EXHIBIT V.

Exhibits & Testimony Offered on the Trial of the Cause on Behalf of Complainant-.

CHAS. R. EGELLY sworn and examined on behalf of complainants.

Direct examination by Col. YOUNG:

Q. Where do you live, Mr. Egelly, and how long have you lived there?

A. I live at Lake Providence; I have resided there since 1865.

Q. Have you a knowledge of these lands belonging to the succession of King that were sold at public sale and adjudicated to Isadore Newman?

A. Yes, sir; I knew something about them; they are swamp lands; lands out on the bayou there.

Q. Do you recollect the respective tracts of land?

A. Yes, sir; I think I have a recollection of some of the names at least.

Q. Please give them.

A. The "Nash" place, "Cable" tract; I think a portion of the Lick Skillet place. That is as near as I can remember.

Q. Does that include the Swan Lake place?

A. Yes, sir; they are out on Swan Lake and "Joe's" bayou. I don't exactly know the location.

Q. How far are those lands from the town of Providence—the nearest point, I mean—say Lick, for instance?

A. I think between eight (8) and ten (10) miles.

Q. What is their condition, cultivated or uncultivated?

466 A. No, sir; they are not in cultivation now; if they are I don't know it; I think they were abandoned; I think a portion of Lick Skillet is in cultivation now.

Q. Are they lands that were formerly in cultivation?

A. Well, yes, sir; they were partially in cultivation; subject to overflow, however.

Q. Were they lands that were cultivated before the war?

A. Yes, sir.

Q. Have they been abandoned since the war on account of overflows?

A. Yes, sir; on account of overflow.

Q. Do the several tracts lie together in the same neighborhood or are they some distance apart?

A. I think they are apart some distance; I could tell, though, by referring to the map.

Q. But you think they are of that description of lands that were in cultivation before the war?

A. Yes, sir; they were reputed to be very fine lands—a portion of them at least.

Q. Very productive, I suppose?

[A.] Yes, sir; but since the war they have been subject to overflows on account of the levees being broken.

Q. Now, Mr. Egelly, is there any demand for those lands at the present time?

467 A. No, sir; none at all. I represent several non-residents who own large tracts of those lands.

Q. Is there any market value at the present time for those lands?

A. No, sir; I am offering some at $5.00 an acre.

Q. Lands of this description?

A. Yes, sir; I am offering them at $4.00 and $5.00 an acre.

Q. You say you represent persons owning such lands?

A. Yes, sir.

Q. Mr. Egelly, can you state from your own knowledge and experience how lands of that kind are now held in your section of country?

A. A great many of them rent for the taxes alone. The assessments are so low that the taxes are very small.

Q. But what I want to find out is for what object or purpose they are held by these persons whom you represent.

A. Well, that I have no idea; I know they are trying to dispose of them—offering them for sale; but there is no market for them.

Q. But I understand you to say you are not willing to take less than $5.00 an acre?

468 A. No, sir; that is 400 acres; that is the only one I am authorized to sell. There is a tract of 1,600. I am authorized to sell 400 acres of it.

Q. Are you authorized to sell any other lands besides those 400 acres; I mean do you represent any other lands?

A. Yes, sir. I represent Mr. A. Martin, of New Orleans. He owns 960 acres.

Q. Is he offering his lands for sale?

A. Yes, sir; but he has fixed no price for them. I received a letter from him a few days since asking me whether there was any op-ortunity of selling the lands.

Q. Do you know of your own knowledge of any others holding lands in the same way—lands of the same character?

A. No, sir; there may be persons out there who hold some. There is no call for lands out there.

Q. Lands of this description formerly in cultivation?

A. Yes, sir.

Q. From your knowledge now of the country and of the business, can you say what the intrinsic value of these lands we speak of is?

A. It might be a very dif-icult matter. There are some lands out there you can buy for $1.50 an acre; lands that cost a great deal more.

469 Q. Well, if you owned those lands and were applied to sell them at what price would you hold them?

A. I would not take less than $5.00. If I was buying them on speculation I think $5.00 is a very fair price for them.

Q. If you were buying them on speculation would you be willing to give $5.00 an acre for them?

A. Yes, sir; I think I would; yes, sir.

Q. With a view to their future inhancement?

A. Yes, sir. I would give $5.00 an acre for the best lands.

Q. Well, if those lands were thrown on the market and sold at a forced sale would they bring their full value?

A. No, sir.

Cross-examination by Judge LUDELING:

Q. Mr. Egelly, you say you would be willing to give $5.00 an acre for lands of this character.

A. Well, no, sir; not all of them. I think the Lick Skillet place

a very good place. I consider that worth $5.00 an acre. I don't know anything about the "Cable" tract.

Q. Don't you know that most of those lands could be bought for a $1.00 or $1.50 an acre?

A. Yes, sir; any quantity of them.

470 Question. Don't you know that nearly all of those places—nearly all of those lands—have been sold since the war for taxes at from a $1.00 to $1.50 an acre?

A. Yes, sir; a great many of them. I think a great many of them have been sold to the State.

Q. Do you know from having taken testimony in a great many cases, having seen the deeds before you, that a very large quantity of those lands have been sold [at] from 50c. to $1.50 an acre?

A. Yes, sir.

Q. What do you mean by saying that you would be willing to give $5.00 an acre, then, for these lands?

A. As an investment; that is the reason. I qualified my answer. If I wished to make an investment I would give that for them.

Q. Have you ever bought any of those lands?

A. No, sir.

Q. Do you own lands of that character?

A. No, sir.

Q. You say you are the agent for two tracts of land. What did you give in those lands for assessment at?

A. Well, the 960-acre tract—I gave that in at $10.00.

Q. And the other?

471 A. The other, 1,600-acre, tract—I don't remember exactly now. I think it was something in the neighborhood of $10.00. There is another place I pay taxes on, for Mr. Wills, of Natchez. The valuation is very small. I don't remember the assessment. I think it is $3.00.

Q. Now, is not that the average assessment of those lands? Is not that about what lands back there are assessed at?

A. Yes, sir; that is about the average assessment—some a little more.

Q. And some a little less?

A. Yes, sir.

Q. You say there is no market, no sales. You mean, don't you, there are no active sales? I presume there are some sales?

A. Yes, sir; there are forced sales. I mean there is no active market for the sale of those lands, and what lands is sold does not sell for anything at all scarcely.

Q. What about private sales? Do you know of any?

A. I can cite one instance of about 360 acres that was sold for $1,500.00.

Q. Was that highly improved property?

A. There was several good cabins on the place—good improvements.

472 Q. Was that a cash sale?

A. Yes, sir.

Q. Was that a remarkable sale?

A. Yes, sir. I considered it a very good price—a big price. That is, the man told me he paid cash for it.

Q. You don't know of your own knowledge whether it was a cash sale or not?

A. No, sir.

Q. You say you came to the parish in 1865?

A. Yes, sir.

Q. You did not know these lands before the war?

A. No, sir.

Q. How do you know they were in cultivation—that is hearsay?

A. Yes, sir.

Q. You have no personal knowledge on the subject?

A. No, sir; I have no knowledge except what I have heard people talk about them.

Q. Are not those places grown up in trees, weeds, etc.?

A. Yes, sir; cotton woods and things of that sort.

Q. What size trees—they have been growing for 20 years, have they not?

473 A. Yes, sir; some of them are 9 inches in size on some of those places out there. Nothing can be made except hay; they make a great deal of that.

Q. But most of them are grown up in trees?

A. Yes, sir; cotton wood, pecan, and little oaks.

Q. And willows?

A. Yes, sir; trees of all descriptions.

Q. Pretty dense, is it not?

A. Yes, sir.

Q. Buildings all gone?

A. Yes, sir; the buildings are all knocked down.

By Col. YOUNG:

Q. How far does the present cultivation extend up Joe's bayou?

A. I don't know; I know one place out there is in cultivation this year.

Q. In the neighborhood of these places?

A. Yes, sir; the "Chamber's" place; it is in cultivation this year in cotton. My understanding is they have a very good crop on it.

Q. Then such lands in that section of country are now being brought into cultivation?

474 A. Yes, sir; there is more interest taken in these lands now; more interest taken in them this year than there has been before.

Q. Why is that, Mr. Egelly?

A. I suppose they must consider them as desirable. The lands have not been overflowed for two years.

Q. On account, I suppose, of their being less liable to overflow?

A. I have never considered them free from overflow yet.

Q. Why is it, then, they are less liable to overflow?

A. The river is not as high this year.

Q. Well, has not the levees been rebuilt?

A. O, yes; there has some protection been given them by the closing of the Ashton levee.

Q. That levee is closed?

A. Yes, sir.

Q. For the first time since the war?

A. Yes, sir.

Q. You mean if the levees were completed to the Arkansas river these lands would be protected from overflow.

A. Yes, sir.

Q. Now, Mr. Egelly, you say you have never been on these particular lands, but you have been in the neighborhood.

475 Yes, sir; I have been in the neighborhood. That has been 3 years ago.

Q. How does the assessed value of lands in East Carroll compare with their actual market value—about what proportion?

A. Well, I don't know.

Q. At what rate are your front lands on the river assessed?

A. They are assessed much higher than the back lands.

Q. About how much p'r acre?

A. Some of them are assessed as high as $20.00 an acre.

Q. Now, what proportion does that bear to their actual market value; is it one-third or one-half?

A. It is fully one-half of their market value.

Filed Oct. 27th, 1885.

J. B. BEATTIE, *D'y Clk.*

476 *Defendants' Testimony. Filed & Marked Exhibit "M."*

United States Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, EX., *et al.* } No. 94.

Inter-ogatories to be propounded to W. B. Keen, Martin Compton, E. W. Constant, T. T. Taylor, & S. H. Moberly, and John A. Buckner, residents of East Carroll parish, State of Louisiana, material & competent witnesses, on behalf of the defendants in the above-entitled case.

Int. 1st. Do you or not know when Ben. E. Hall bid in the Mounds plantation at public sale in East Carroll parish?

Int. 2nd. Do you or not know whether John A. Buckner had induced said Hall to bid at said sale? Do you know whether or not said Buckner approved of Ben. E. Hall bidding at said public sale?

Int. 3d. When did said sale take place? Were you present? Did you hear John A. Buckner say that Ben. E. Hall was foolish or unwise in not permitting the person who bid against him to purchase the plantation or not? What did said John A. Buckner say? When was this and where; was it in the evening of the day after

477 the sale or not? Did you hear him make said remarks or similar remarks more than once or not?

Int. 4th. What was the actual cash value of the Mounds plantation on the day when it was sold to John A. Buckner; was or was not $20,000 cash a fair & full price for the place on the day it was sold to John A. Buckner?

Inter-ogatories to be Answered by John A. Buckner.

Int. 1st. Where is Ben. E. Hall? What relation was he to you; was he or not the husband of your sister? Was he the universal legatee of his wife or not?

Int. 2nd. Did you advise or encourage Ben. E. Hall to bid at the first offering for sale of the Mounds plantation? Did you advise or encourage him to bid at said sale with the intention or object of defeating a sale of the place to any other bidder?

Int. 3d. Did you approve or disapprove of his bidding at said sale? Did you express your approval or disapproval to him or to others on the day of sale or afterwards?

Int. 4th. Did you procure Ben. E. Hall or any one else to bid at said sale with a fraudulent intent?

478 Int. 5th. Did your sister, Mrs. Hall, make you her business adviser or not? Who was her business adviser?

Int. 6th. What price did you bid at the sale of the Mounds plantation & when was that? Did you pay the price or not? How was the price paid? Was the price paid applied to the extinguishment of debts against the estate of your sister or the property bought or not?

Int. 7th. Was the price given for the property a fair and full price at the time of the sale?

Int. 8th. Was or was not your purchase made in good faith?

Int. 9th. What connection had you with the administration of the succession of your sister, Mrs. Hall?

Int. 10th. Did you direct or control the action of the administration of said succession or not?

Int. 11th. Did you direct or control the action of your sister, Mrs. Hall, in her business affairs or not?

Int. 12th. When did you first get possession or control of the plantation? Under what title? If at tax sale, state if you paid the price & what it was. Had you a mortgage on the place at the time or not?

479 Int. 13th. Was there growing crops on the place at that time? What became of it? What became of the proceeds of the crops on that place? Were they used to pay the debts of the merchants for advance to said place or not?

Int. 14. If you had a mortgage on the Mounds plantation state how you acquired it, what the mortgage was for, & what you paid for it, or the notes secured by it? When did you acquire the notes? Did you buy them in good faith or not?

Int. 15th. Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matter in question in this

cause? If yea, set forth the same fully and at large in your answer.

LUDELING & STILLMAN, *Solicitors.*

Circuit Court of the U. S., Western Dist. of Louisiana.

HEIRS OF W. D. KING *vs.* BEN. E. HALL, EX., *et als.*

The petition of the defendants respectfully represents that
480 W. B. Keen, Martin Compton, E. W. Constant, T. T. Taylor, S. H. Moberly & John A. Buckner, residents of East Carroll, La., are material and competent witnesses in their behalf, & they desire to take their testimony by commission.

Wherefore they pray for an order for a commission, & that a commission be issued to take the testimony of said witness, directed to any judge, justice of the peace, notary public, or United States commissioner in Louisiana, & made returnable on or before the 26th of October, 1885, according to law, & for all necessary orders, etc.

LUDELING & STILLMAN, *Solicitors.*

A true copy.
Attest:
[L. S.] J. B. BEATTIE, *D'y Cl'k.*

United States Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs } No. 94.
BEN. E. HALL, Adm., *et als.*

Be it known and remembered that on this the 13th day of October, A. D. 1885, I, Chas. R. Egelly, a commissioner of the cir-
481 cuit court of the United States, duly commissioned and sworn as such, and specially commissioned, as will appear by the commission annexed hereto, bearing date of October 8th, 1885, directing and authorizing me to cause to appear before me the following witnesses, to wit, W. B. Keen, Martin Compton, E. W. Constant, T. T. Taylor, S. H. Mob-erly, and John A. Buckner, all residing in the parish of East Carroll, La., in the Western district of Louisiana, to examine them on oath touching and concerning certain matters and things in the case now pending in the said court, wherein the heirs of W. D. King are plaintiffs and Ben. E. Hall, administrator, *et als.* are defendants—

I, the said commissioner, did cause to be summoned the witnesses hereinbefore mentioned on the days and dates hereinafter expressed, commencing at the hour of ten o'clock a. m. of said days, to all of whom I administered the oath in due form of law, to testify to the truth, the whole truth, and nothing but the truth; and the first witness being W. Bodien Keen, of lawful age, appearing on the 13th of October, he was by me duly cautioned and carefully examined, and upon his oath does depose and answer in words and fig-
482 ures to the inter-ogatories to him propounded, commencing on page 1 of the depositions hereof of said cause styled the

Heirs of W. D. King *vs.* Ben. E. Hall, adm., *et als.*, No. 94 on the docket of the United States circuit court of the fifth circuit in and for the western district of Louisiana, to wit:

W. B. Keen, being duly sworn, deposes and answers as follows:

Int. 1. Witness answers and says: Yes, I do, but was not present at the sale of the Mounds plantation.

Int. 2. Witness answers and says: From the remark made by John A. Buckner I suppose that he did not approve of Hall bidding at the sale; am satisfied that Buckner did not induce Hall to bid at the sale of said Mounds plantation, nor approve of his actions relative thereto.

Int. 3d. Witness answers and says: On June 19th, 1880,
483 was not present. I did not hear John A. Buckner say that Hall was foolish and unwise in not permitting the person who bid against him at the sale of the Mounds plantation to purchase said plantation. Buckner remarked that Hall was very foolish in not allowing the sheriff to adjudicate the property on said day of sale to S. L. Graham; that the bid offered by Graham would have been sufficient to pay the debts due by the succession, and left some money for Ben. E. Hall. This conversation and remarks occurred at my office at Atherton store, in East Carroll parish, La., on June 19th, 1880, after the sale, being in the evening of the day of the sale after he returned from Lake Providence, the parish site where the sale took place. I heard Buckner make said remarks on several occasions afterwards.

Int. 4th. Witness answers and says: From nineteen thousand to twenty thousand dollars I considered the actual cash valuation of the Mounds plantation on the day it was sold to John A. Buckner,
and twenty thousand dollars was a fair and full price for said
484 plantation on the day it was sold to John A. Buckner. I was familiar with said plantation, same having been the property of my grandfather, and am positive as to its real value on the day it was sold to Buckner.

W. BODIEN KEEN.

Sworn to and subscribed before me on this the 13th day of October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

Being unable to continue the further taking of testimony of the witnesses summoned under the annexed commission, owing to the non-attendance, an adjournment was had until Wednesday, Oct. 14th, at noon of said day.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

Met on Wednesday, Oct. 13, '85, and the following witness, to wit, Martin Compton, being duly sworn, deposes and answers as follows:

Int. 1. Witness answers and says: The Mounds plantation, in East Carroll parish, was bid in by Ben. E. Hall on June 19th, 1880; such is my recollection.

Int. 2. Witness answers and says: Am satisfied from what
485 I know of my own knowledge of the opinion of John A. Buckner and remarks made by him, that he did not induce Ben. E. Hall to bid at said sale, and am thoroughly convinced from what Col. John A. Buckner stated in my presence that he did not approve of Ben. E. Hall bidding at said public sale.

Int. 3d. Witness answers and says: The sale took place on June 19th, 1880, as near as I can remember. I was not present at said sale. I did hear John A. Buckner say that Hall had acted foolishly and unwise in not permitting the person who bid against him to purchase the plantation (that is the Mounds plantation) at said sale. John A. Buckner said that Hall was very foolish in bidding at said sale; that if he had not bid against the person bidding at said sale of said plantation, and it had been sold to said party so bidding, he would have realized sufficient money from said sale to have paid all the debts due by said succession, and, besides, would have (he, Hall) several thousand dollars left.

These remarks were made at the store of W. B. Keen, in the
486 parish of East Carroll, La., on June 19th, 1880, being the evening of the day after said sale was made and the property bid in by Ben. E. Hall.

I heard Col. John A. Buckner make similar remarks on*d* different occasons, as stated above, after the sale was made.

Int. 4th. Witness answers and says: The Mounds plantation on the day it was sold to John A. Buckner, I considered to be worth between eighteen thousand to nineteen thousand dollars. I would not have paid more than that price on said day had I been inclined to purchase. I consider that $20,000.00 was a full price, and more than I would have paid for said plantation, being familiar with the location and nature of the soil of said plantation for the past 8 years, and am conversant with the value of cotton lands in that immediate section of the parish.

J. M. COMPTON.

Sworn to and subscribed before me this 14th day of October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

After which the witness, E. W. Constant, a witness in said cause, was called, and said Edward W. Constant, being duly sworn, deposes and answers as follows:

487 Int. 1st. Witness answers and says: Yes, I do remember when Ben. E. Hall bid in the Mounds plantation at public sale.

Int. 2nd. Witness answers and says: I do not think that John A. Buckner induced Ben. E. Hall to bid at said sale. I know of my own knowledge from what Buckner told me that he did not approve of Ben. E. Hall bidding at said public sale.

Int. 3d. Witness answers and says: Some time in June, 1880. I was not present at said sale. Buckner said to me that he thought Ben. E. Hall was very foolish and unwise in bidding against the person who bid at said sale of said Mounds plantation on said day of sale. Buckner told me that Hall was very foolish in not allowing the property to be adjudicated to the person bidding at said sale, John A. Buckner stating that the person bidding was S. L. Graham, represented by Edward I. Stiles, his agent and att'y-in-fact, and that if said Hall had permitted the property to be adjudicated to said Graham the price bid therefor would have paid all the debts due
488 by the succession, and Ben. E. Hall would have had a surplus of six thousand or seven thousand dollars. I heard John A. Buckner make the same remarks at different times at my private residence, my office, and in driving up in a buggy from Atherton to Lake Providence.

Int. 4th. Witness answers and says: I consider that on the day the Mounds plantation was sold to John A. Buckner it was worth twenty thousand dollars, and that would be a full price for said plantation on said day of sale to John A. Buckner, and I would not have paid that price for said plantation on said day if I had been inclined to purchase, from my knowledge of the said plantation, condition of the soil, etc., having lived in the neighborhood for many years and being owner of the adjoining plantation.

EDWARD W. CONSTANT.

Sworn to and subscribed before me this 4th day of October, A. D. 1885.

CHAS. R. EGELLY,
U. S. Commissioner.

Being unable to proceed with the further taking of testimony in this case, owing to the absence of the witnesses, T. T. Taylor, S. H. Moberly, and John A. Buckner, an adjournment was had
489 until Friday, the 16th day of October, A. D. 1885, for the purpose of taking the depositions of the witnesses, John A. Buckner, T. T. Taylor, and S. H. Moberly, due notice of which I caused to be given for their appearance on said day.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

FRIDAY, *October* 16, '85.

Met this day at 4 o'clock p. m., pursuant to adjournment, when the witness, Timothy T. Taylor, appearing at the hour named, and after being by me duly cautioned and sworn in due form of law, I proceeded to reduce to writing his deposition in words and figures as follows, as will appear on the next page hereof, to wit, on page —:

490 Timothy F. Taylor being duly sworn, deposes and answers as follows:

Int. 1st. Witness answers and says: I do. I think in 1880, in the month of June, the said Mounds plantation was bid in at public sale by Ben. E. Hall.

Int. 2nd. Witness answers and says: I know of my own knowledge that John A. Buckner never induced Hall to bid at said sale. Hall told me that when he bid in the Mounds plantation he did so for his own personal account. Buckner did not approve of Hall bidding at said public sale to my certain knowledge.

Int. 3d. Witness answers and says: In June, 1880; cannot recall to my mind the precise and exact date. I was not present at the sale. I did hear John F. Buckner say that Hall was foolish and unwise in not permitting the person who bid against him to purchase the said Mounds plantation. Buckner said that if Hall had not bid against said person the said plantation could have been sold to the person so bidding, whom I understood to be S. L.

491 Graham, represented by his agent and att'y-in-fact, Edward I. Stiles. Stiles told me that the reason he was bidding on said Mounds plantation was that Mr. Graham wished to purchase it for one of his children, he, Graham, being the owner of the adjoining plantation known as Stambone, which he was to donate to another one of his children. I heard John A. Buckner remark on several occasions, after Mr. Hall had bid upon the property, that he had acted very unwisely, and that if he had allowed Graham to buy the property the amount realized would have been sufficient to have paid all the debts due by the succession, and left Mr. Hall with a surplus of several thousand dollars. I heard him say so in 1883.

Int. 4th. Witness answers and says: The actual cash value of the Mounds plantation on the day it was sold to John A. Buckner was not worth exceeding twenty thousand dollars. I consider that twenty thousand dollars was a full price for the said Mounds plantation the day it was sold to John A. Buckner. I would not have paid that price for the place at that time, knowing its condition, nature of soil, etc.

T. T. TAYLOR.

492 Sworn to and subscribed before me this 16th day of October, A. D. 1885.

CHAS. R. EGELLY,
U. S. Commissioner.

And after having so sworn the said witnesses and reduced their depositions to writing, which I caused them to sign on each page, as appears herein and above, except the witness S. H. Moberly, who was absent from the parish and district, and it being uncertain as to his return I was ordered by the counsel for defendants to dispense with the deposition of said witness, as well as that of the witness John A. Buckner, he having responded to the inter-ogatories propounded to him and taken before in a separate commission.

In testimony whereof I have hereunto signed these presents and affixed my official signature on this the 16th day of October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

493 Circuit Court of the United States of America, Fifth Circuit and Western District of District of Louisiana, Holding Session in the City of Monroe, Louisiana.

To any judge, justice of the peace, notary public, or U. S. commissioner residing in East Carroll parish, La.:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you W. B. Keen, Martin Compton, E. W. Constant, T. T. Taylor, S. H. Moberly, and John A. Buckner, residents of East Carroll parish, State of Louisiana, and them duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now pending in the said court wherein heirs of W. D. King are plaintiffs and Ben. E. Hall, adm'r, *et als.*, are defendants, and the same examinations so taken and reduced to writing you certify under your hand and seal and send enclosed to this court on or before October 26th, 1885, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Monroe, La. this 8th day of October, in the year of our Lord 1885, and of the Independence of the United States of America the 110th.

[L. S.] J. B. BEATTIE,
D'y Clerk.

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, adm'r, *et als.* Commission. Received in office, opened, and filed Oct. 26th, 1885. J. B. Beattie, d'y cl'k.

494 *Testimony of Defendants Filed & Marked Exhibit "N."*

United States Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

To the honorable judges of the circuit court:

The defendant, John A. Buckner, respectfully shows that the testimony of himself, a competent witness, residing in the parish of East Carroll, Louisiana, is necessary and material to the trial of this cause.

Wherefore he prays for a commission, direct to any judge, justice of the peace, notary public, or U. S. commissioner, or Charles R. Egelly, a U. S. commissioner, residing in said parish of East Carroll,

Louisiana, requiring him to take the testimony of said witness according to law, and make due return thereof to the honorable court on or before the 26th day of October, 1885, and that complainants have due notice thereof.

Int. 1st. Where do you live and what is your occupation?

Int. 2nd. Are you acquainted with the parties to this suit?

Int. 3d. Have you any knowledge in reference to the foreclosure of the mortgages against the Mounds plantation in suits styled
495 T. L. Aivey & Co. *vs.* Ben. E. Hall, executor, and John A. Buckner *vs.* Ben. E. Hall, executor, on the docket of the district court, parish of East Carroll? If yea, state whether you were present when said plantation was sold, and also whether or not you were present at the first time it was offered for sale by the sheriff; if yea, state what you know about said foreclosures proceedings and the circumstances thereof.

Int. 4th. When and how many times was the Mounds plantation offered for sale under said foreclosure or foreclosures?

Int. 5th. Was there any combination or collusion between parties within your knowledge to defeat the sale or prevent the adjudication at the first offering of the Mounds plantation at public auction by the sheriff?

Int. 6th. When was the property next advertised for sale, and did the sale occur under the second advertisement? If you answer nay, state what prevented the sale.

Int. 7th. Was the sale arrested by injunction; and, if so, by whom, what interest was set up, and for what cause the injunction issued?

Int. 8th. If you state that Montgomery and Delony took out the injunctions as creditors of the succession of W. D. King please
496 state whether you made any combination or agreement in person or through any one else with Montgomery and Delony or any one else whereby you contracted to obtain the dismissal of there injunction in order to proceed with said foreclosure. State all you know in reference to said injunction, and whether or not you promised to pay any sum of money or offered any inducement with a view to obtain a compromise of their claim and the dismissal of their injunction. Was there any contract between you and Montgomery and Delony obligating you in any manner, morally or legally, to pay Montgomery and Delony? Had you anything to do with the payment of their debt? State fully what you know about the transaction.

Int. 9th. What was the attitude of Ben. E. Hall in reference to said foreclosures; was he favorable or unfavorable to the proceedings?

Int. 10th. When the property was ultimately sold under said foreclosures was it a fair open and public sale? Who became the purchaser, and at what price? Was the price equal to the full value of the property at the time?

Int. 11th. Was the price equal to the amount bid at the first offering? If nay, what was the cause of the property selling for
497 less than had been bid at a previous offering? Had there

been any depreciation of property? If yea, state fully the cause of the depreciation.

Int. 12th. What was your motive or object as far as you were interested in the foreclosures? Had you any speculation in view? Did you regard the property as worth more than was involved in said foreclosure proceedings?

Int. 13th. Have you any knowledge in reference to the purchase by Mrs. Eleonora E. Hall of the undivided half of the Mounds plantation from the complainants, the heirs of W. D. King? Did you have any hand in that transaction? State fully all you know about it.

Int. 14th. By whom was Mrs. Eleonora E. Hall guided and controlled, if by any one, in the management of her business?

Int. 15th. Had you a controlling influence over her business matters, or did you attempt to supervise the administeration of her business in any way?

Int. 16th. Was Ben. E. Hall guided and influenced by any one in his business matters, or did he act for himself in such matters? What was his capacity? Did he have a good business education and a good mind?

498 Int. 17th. Did you exercise a controlling influence over Mr. Hall, or [in] any manner did you assume to transact his business?

Int. 18th. Do you know whether or not Ben. E. Hall was faithful in his trust or administeration of the succession of King? Did he attempt to make money at the expense of said succession? Did his administeration of said succession in any manner enrich him or operate to his pecuniary gain?

Int. 19th. From whom did you purchase the mortgage notes upon which was based foreclosure styled "John A. Buckner *vs.* Ben. E. Hall, executor," on the docket of the 8th district court, parish of East Carroll?

Int. 20th. Did you buy the notes from the complainants? If yea, what did you pay for the notes? State fully all you know about the transaction. When and where did it occur?

Int. 21st. Was there any combination or scheme between you and Ben. E. Hall or any one else whereby you were to acquire the ownership of the Mounds plantation at a small price and thereby defeat the enforcement of any obligation that complainants might have to compel the succession of Mrs. Eleonora E. Hall to pay the

499 debts of the estate of King, as alleged by complainants in this suit? Did you have any such object or purpose in view? State all you know about it.

Int. 22nd. Were you present and did you assist at the sale whereby Mrs. Eleonora E. Hall acquired from complainants the undivided half of the Mounds plantation, as set up in the bill of complainants?

Int. 23d. Do you know or can you set forth any other matter or thing which may be of advantage or benefit to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matter in question in this

cause? If yea, set forth the same fully and at large in your answer.

LUDELING & STILLMAN, *Solicitors.*

A true copy.

Attest:

[L. S.] J. B. BEATTIE.

United States Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

Be it known and remembered that on this the 15th day of October, in the year of our Lord one thousand eight hundred and
500 eighty-five, I, Charles R. Egelly, a commissioner of the circuit court of the United States, duly commissioned and sworn as such, and specially commissioned, as will appear by the commission annexed hereto, bearing date of October 8th, 1885, directing and authorizing me to cause to appear before me John A. Bucknell, a witness residing in the parish of East Carroll, La., in the western district of the United States thereof, to examine him on oath touching and concerning certain matters and things in the case now pending in the said court, wherein the heirs of W. D. King are plaintiffs and Ben. E. Hall, adm'r, *et als.* are defendants, *I, the said commissioner*, did, on this the 15th day of October, 1885, caused to come before me at my office, in the town of Lake Providence, in said parish and State, at the hour of 10 o'clock a. m. of said day, the said witness, John A. Buckner, to be examined in said cause so pending in the said circuit court of the United States in and for the western district of Louisiana, and the said John A. Buckner, of lawful age, being by me cautioned and sworn in due form of law to testify the whole truth, and being by me carefully examined upon his oath, did depose and answer *seriatim* in words and figures which I carefully reduced to writing, as follows:

501 John A. Buckner, being duly sworn, deposes and answers as follows, to wit:

Int. 1st. Witness answers and says: I live in the parish of East Carroll, and I am a cotton planter by occupation.

Int. 2. Witness answers and says: I am acquainted with the defendant and with J. M. Norman, the husband of one of the plaintiffs; am not acquainted with the other plaintiffs.

Int. 3d. Witness answers and says: I know about the foreclosures of the mortgage against the Mounds plantation, and was present when said plantation was sold. I was present the first time it was offered for sale by the sheriff. The first offering was to foreclose a mortgage of T. L. Aivey & Co. I was then the owner of certain mortgage notes given by Mrs. Eleonora Hall to the King heirs in the

purchase of the King half interest in the Mounds plantation, but the foreclosure at the offering was not made under my mortgage. I had not begun to foreclose my mortgage.

Int. 4. Witness answers and says: It was offered for sale twice. The first time on the 19th day [of] June, 1880, under the mortgage
502 of T. L. Aivey & Co., and the second time on the 21st day of June, 1884, to satisfy both the mortgage of T. L. Aivey & Co. and my own.

Int. 5th. Witness answers and says: There was no combination or collusion between parties, within my knowledge, to defeat the sale, or to prevent the adjudication at the first offering of the Mounds plantation. Had there been any I think I would have known it.

Int. 6th. Witness answers and says: The property was next advertised for sale on the 3d day of July, 1880, and readvertised on the 7th day [of] August, 1880. The sale did not occur under the second advertisement because of an injunction served by Montgomery and Delony.

Int. 7th. The sale was advertised by injunction of Montgomery and Delony on account of a claim for legal services rendered by them (as they set forth) against the late W. D. King.

Int. 8th. I did not make any combination or agreement in person or through any one else with Montgomery and Delony or any one else whereby I contracted to obtain the dismissal of their injunction in order to proceed the said foreclosure. I did not promise
503 to pay any sum of money, nor did I offer any inducement with a view to obtain a compromise of their claim and a dismissal of their injunction. There was no contract between me and Montgomery and Delony obligating me morally or legally to pay them. I had nothing to do with the payment of their debt. I had a debt of my own in the shape of mortgage notes bought from the King heirs, which I was anxious to realize the money on, and I thought it a very hard matter that I should be prevented from realizing the money on my mortgage.

Int. 9th. Witness answers and says: Ben. E. Hall was very much opposed to the foreclosure. He was the universal legatee of his wife, and he always indulged the hope that he would pay off the debt and retain the property as a home for himself. I urged him at the offering to let the property be sold to S. L. Graham. I told him that he would have several thousand dollars after the debts were paid, but he disregarded my entreaties.

Int. 10. Witness answers and says: When the property was ultimately sold under the foreclosure it was at a fair, open, and
504 public sale in front of the court-house, and by the sheriff of the parish. I became the purchaser at the price of twenty-two thousand dollars. The price was equal to the full value of the property at that time, and I here announce the fact that any one who would pay that price can receive a deed from me to said place at any time.

Int. 11th. Witness answers and says: The price paid by me was not equal to the bid at the first offering: First, because the bidders at the first offering were moved by peculiar reasons, and, 2nd, be-

cause four years had intervened and the place had been overflowed twice in the meantime. S. L. Graham, who bid at the first offering, owned the adjoining plantation, on which he expected to settle one of his children, and, as I learned, wished the Mounds plantation as an investment for another one of his children. The following year I was told by his agent that he would not make an offer for said Mounds plantation at any price. Mr. Hall bid high, because it was — home, and he was very reluctant to part with it.

Int. 12th. Witness answers and says: My motive or object,
505 as far as I was interested in the foreclosure, was to get my money out of it. I did not have any speculation in view; I did not regard the property as being worth more than was involved in said foreclosure proceedings, nor do I think there is a man in the country who will pay more than twenty-two thousand dollars for said plantation to-day.

Int. 13th. Witness answers and says: I know that Mrs. Eleonora E. Hall bought the undivided half of the Mounds plantation from the complainants, the heirs of W. D. King. I had nothing to do with the transaction. It was conducted entirely by her husband, Ben. E. Hall, and I knew nothing of it until after the trade was made. Mr. Ben. E. Hall went to Mississippi, the home of the King heirs, and there made the trade, and I did not know anything concerning it until some time afterwards.

Int. 14th. Witness answers and says: Mrs. Eleonora E. Hall was a woman of strong will and practical business sense. If she was influenced by any one outside of her husband it was by Mr. Chas. Gallagher, of New Orleans, who was a commission merchant and an old friend of her father's family.

506 Int. 15th. Witness answers and says: I had not control over her business matters, nor did I attempt to supervise the administration of her business in any way. For two years after she took possession of the Mounds plantation I very seldom visited her house.

Int. 16th. Witness answers and says: Mr. Ben. E. Hall was a man of very stubborn and strong will, and was less easily ruled in his business than most men. He had been a successful merchant, and, although not a practical planter, he was a shrewd trader, a good accountant, and had been before the war a man of large means and excellent mercantile credit.

Int. 17th. Witness answers and says: I had no control whatever over Mr. Ben. E. Hall, and for two years preceding the sale of the Mounds plantation I was barely on speaking terms with him.

Int. 18th. Witness answers and says: As far as I know, he was faithful in his trust as administrator of the succession of King. He had but little op-ortunity to exercise any control, the property being under seizure a short time after he was confirmed as executor. I do not think that he attempted to make money at the expense
507 of the said succession. His administration certainly did not enrich him or operate to his pecuniary gain.

Int. 19th. Witness answers and says: I purchased the mortgage notes upon which was based the foreclosure styled John A. Buckner

vs. Ben. E. Hall, executor, for one J. M. Norman, husband of one of the King heirs, and Judge E. D. Farrar, their attorney.

Int. 20th. Witness answers and says: I bought the notes from the husband of one of the complainants and their attorney. I paid four thousand seven hundred and twenty-two $\frac{48}{100}$ dollars ($4,722.48) for said notes, which was the principal and interest. The purchase of the notes was made in the office of Judge E. D. Farrar, in the city of Vicksburg, on the 18th or 19th May, 1880. I gave all that was asked, which was the face of the notes, with interest. I gave two drafts on my merchants in New Orleans, which were paid. One draft was given to the order of J. M. Norman (husband of one of the King heirs) for four thousand and two hundred and fifty $\frac{24}{100}$ dollars, and one draft was given to Judge E. D. Farrar, for his fee, for four hundred and seventy-two $\frac{24}{100}$ dollars.

Int. 21st. Witness answers and says: There was no combi-
508 nation between myself and Ben. E. Hall nor any one else by which I was to acquire the ownership of the Mounds plantation at a small price, and thereby defeat the inforcement of any obligation that complainants might have to compel the succession of Mrs. Eleonora E. Hall to pay the debts due by the succession of King. I had no such object or purpose in view. I became the owner of the vendor's mortgage notes. I was under no legal or moral obligation to pay the debts due by the succession of King. I wanted my money, and I did not believe that the Mounds place could pay the mortgage of T. L. Airey & Co. and my own by working them out; hence, I sought to secure myself by a foreclosure of the mortgage; and I did not attempt to foreclose my mortgage until the 20th of November, 1880, several months after it had been first offered by T. L. Airey & Co.

Int. 22d. Witness answers and says: I was not present, and had nothing to do with the purchase by Mrs. Elleonora E. Hall of the undivided half interest in the Mounds plantation. The transaction was conducted entirely by her husband, Ben. E. Hall.

Int. 23d. Witness answers and says: I know nothing further
509 but what I have stated, except that I deny emphatically that Ben. E. Hall was used as a tool or set up as an irresponsible bidder by me. Mr. Ben. E. Hall bid for himself and not as my tool. I was not conducting the sale. The counsel for T. L. Airey & Co. alone control-ed the sale at the time of the first offering, on June 19th, 1880. I did not get the order of seizure and sale granted by the judge to foreclose my mortgage until the 20th of November, 1880, five months after the first offering. Mr. Ben. E. Hall got the counsel of T. L. Airey & Co. to postpone the sale.

JOHN A. BUCKNER.

Sworn to and subscribed before me this the 15th day of October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

Certificate.

I, Chas. R. Egelly, a commissioner of the circuit court in and for the western district of Louisiana, do hereby certify that the within and foregoing testimony of the witness, John A. Buckner, on pages — to —, inclusive, is correct as being reduced to writing by me.

In testimony whereof I hereunto sign these presents and affix my official seal, at my office in the town of Lake Providence, in the parish of East Carroll, La., on this the 15th day of October, A D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

509½ Circuit Court of the United States of America, Fifth Circuit and Western District of Louisiana. Holding Sessions in the City of Monroe, Louisiana.

To any judge, justice of the peace, notary public, or U. S. commissioner, residing in East Carroll parish, La.:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you John A. Buckner, a resident of East Carroll parish, State of Louisiana, and him duly examine on the annexed interrogatories on oath touching and concerning certain matters and things in a case now pending in the said court wherein heirs of W. D. King are plaintiffs and Ben. E. Hall, adm'r, *et als.* are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court, on or before October 26th, 1885, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the City of Monroe, La., this 8th day of October, in the year of Lord, 188-, and of the Independence of the United States of America the 110th.

[L. S.] J. B. BEATTIE,
D'y Clerk.

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, adm'r, *et als.* Commission. Received in office, opened, and filed Oct. 26th, 1885. J. B. Beattie, d'y cl'k.

510 *Defendants' Testimony. Filed and Marked Exhibit "O."*

United States Circuit Court, Western District of Louisiana. In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm'r, *et als.* } No. 94.

To the honorable the judges of the circuit court:

The defendant, John A. Buckner, respectfully shows that the testimony of William G. Wyly, a competent witness, residing in the parish of East Carroll, Louisiana, is necessary and material to the trial of this cause.

Wherefore he prays for a commission directed to any judge, justice of the peace, or notary public of La., or U. S. commissioner, or to Charles R. Egelly, a U. S. commissioner, residing in said parish of East Carroll, Louisiana, requiring him to take the testimony of said witness according to law, and make due return thereof to this honorable court on or before [the] 26th day of October, 1885, and that complainants have due notice thereof.

Int. 1st. Where do you live and what is your occupation? If you say you live in the parish of East Carroll, please state how long you have resided there. If you state you are a practicing attorney, please state how long you have been engaged in practicing law in that parish.

Int. 2nd. Are you acquainted with the parties to this suit?

511 Int. 3d. Have you any knowledge in reference to the foreclosures of the mortgage against the Mounds plantation, styled T. L. Airey & Co. *vs.* Ben. E. Hall, executor, and John A. Buckner *vs.* Ben. E. Hall, executor? If you answer yea, please state who was the counsel employed in said suits to foreclose said mortgages in the district of the parish of East Carroll.

Int. 4th. If you state you were the counsel employed to foreclose said mortgages, will you state how n any times and when said property was offered for sale? If it was offered for sale more than once, will you be kind enough to explain why it was not adjudicated at the first, and also why the sale was postponed.

Int. 5th. Will you state whether there was any combination or collusion between parties, within your knowledge, to defeat the sale or prevent adjudication at the first offering of the Mounds plantation at public auction by the sheriff?

Int. 6th. When was it that the property was next advertised for sale after the first sale was postponed or failed to be consum-ated, and why was not the property sold at the time it was again advertised to be sold? What prevented the sale from being made when the property was advertised a second time for sale?

512 Int. 7th. Was the sale arrested by injunction; and, if so, who enjoined the sale, and what interest did the parties who enjoined the sale set up? Of whom were the conditions and to what amount? Was the validity of the mortgages sought to be foreclosed questioned?

Int. 8th. If you state that the parties enjoining said foreclosures were creditors of W. D. King's succession, will you state what became of their injunction suit? Was it tried and disposed of? State all the facts in reference to the dissolution of said injunction. Was the suit compromised or was the debt set up by the creditors of King's succession paid in full; if so, by whom and out of what funds was it paid and when?

Int. 9th. Did John A. Buckner pay said claims of the parties enjoining said foreclosures or make any compromise or agreement whatever with them, or did you, as counsel for T. L. Airey & Co., or as counsel for any one else, make any compromise or agreement in reference to said claims? And, if so, state fully the nature of the transaction, if any.

Int. 10th. How were the funds raised to pay the two claims of Montgomery and Delony against the estate of W. King, if you state they had two claims and that they were paid?

513 Int. 11th. Was any property sold by Ben. E. Hall, executor of the estate of W. D. King; if so, when and what amounts were realized at succession sales of W. D. King's estate, and what disposition was made of the funds arising from the sale thereof?

Int. 12th. Did Montgomery & Delony have two claims against the estate of W. D. King; if so, were they paid, by whom, when, and how? State all you know about the matter.

Int. 13th. Did John A. Buckner make any contribution or agreement to pay the claims of Montgomery and Delony against the estate of W. D. King? Was there any contract between him and Montgomery and Delony in reference thereto?

Int. 14th. Did the Mounds plantation when ultimately sold under said foreclosure bring as high a price as was bid at the first offering? Did it sell for its full value when it was adjudicated to John A. Buckner? Was there any combination or collusion when the property was adjudicated (within your knowledge) tending to defeat a fair and just sale of the property? Explain fully your knowledge in reference to this sale of the Mounds plantation. If you state that the Mounds plantation sold for less than had been bid at the first offering, will you state the cause and explain fully why it was the property did not bring as much as was bid at the first offering?

514 Int. 15th. What was the attitude of Mr. Ben. E. Hall in reference to the sale of the Mounds plantation at the time it was first offered, and at the time it was subsequently adjudicated, and through the whole proceedings to foreclose? Was he willing for the sale or was he anxious to avert it? What were his ideas, as far as you ascertained — from him, as to the value of the property and as to willingness or unwillingness for the sal- under said foreclosures? Was he in collusion with John A. Buckner or any one else to obtain the sale under said foreclosures? State what you know about the matter and the position of Ben. E. Hall in reference to the sale.

Int. 16th. Do you or can you set forth any other matter or thing which may be of advantage or benefit to the parties at issue in this cause? If yea, set forth the same fully and at large in your answer?

LUDELING & STILLMAN,
Solicitors & Atty's.

A true copy.
Attest:
[L. S.] J. B. BEATTIE, *D'y Clk.*

515 United States Circuit Court, Western District of Louisiana.
In Equity.

HEIRS OF W. D. KING
vs.
BEN. E. HALL, Adm., *et al.* } No. 94.

Be it known and remembered that on this the 15th day of October, in the year of our Lord one thousand eight hundred and eighty-five, I, Chas. R. Egelly, a commissioner of the circuit court of the United States, duly commissioned and sworn as such and specially commissioned, as will appear by the commission annexed hereto, bearing date of October 8th, 1885, directing and authorizing me to cause to appear before me, William G. Wyly, a witness residing in the parish of East Carroll, La., in the western district of the United States thereof, to examine him on oath touching and concerning matters and things in a case now pending in the said court, wherein the heirs of W. D. King are plaintiffs and Ben. E. Hall, adm'r *et al.*, are defendants, *I, the said commissioner*, did, on the 15th day of October, 1885, caused to become before me at my office in the town of Lake Providence, in said parish and State, at the hour of 10 o'clock a. m. of the said day, the said witness, Wm. G. Wyly, to be examined in said cause so pending in the said circuit court of the United States in and for the western district of Louisiana; and the said William G. Wyly, of lawful age, being by me cautioned and sworn in due form of law to testify to the whole truth, and
516 being by me carefully examined upon his oath, did depose and answer *seriatim* in words and figures, which I carefully reduced to writing as follows:

Wm. G. Wyly being duly cautioned and sworn, deposes and answers as follows, to wit:

Int. 1st. Witness answers and says: I live in the parish of East Carroll, La. I am occupied as a planter and also as an attorney-at-law. I have been a citizen of East Carroll parish for over 30 years. I have been practicing law in said parish since 1858, except during eight years and a half while I was an associate justice of the supreme court of Louisiana.

Int 2nd. Witness answers and says: I am acquainted with the defendants in this suit, but I am not acquainted with the complainants.

Int. 3d. Witness answers and says: I know all about the foreclosures of the mortgages against the Mounds plantation styled T. L. Aivey & Co. *vs.* Ben. E. Hall, executor, and John A. Buckner *vs.* Ben. E. Hall, executor. I was the counsel employed to foreclose said mortgages.

517 Int. 4th. Witness answers and says: The property was offered for sale twice. It was first offered on the 19th day of June, 1880, under the T. L. Aivey & Co.'s foreclosure only; at the first offering the property was adjudicated to Ben. E. Hall for about $31,000 *doll's*. Hall was universal legatee of his wife, Mrs. Eleonora E. Hall. When the adjudication to him occurred I think the sheriff

gave him about two hours to comply with his bid by paying the money. He came to my office and begged me to postpone the sale in order that he might confer with Mess. T. L. Aivey & Co. and get some indulgence. He (Hall) represented that he had a good crop growing that year (1880), and he thought he could make arrangements with T. L. Aivey & Co. and work the debt out. He seemed to have an exag-erated idea as to the value of the property which was his as universal legatee, after the debts of his deceased wife were paid. As I regarded the property worth the amount of the mortgage debts, and believing that Mr. Hall might prevail on my clients for a little indulgence, I agreed to postpone the sale at the earnest solicitation of Mr. Hall. Some time afterwards I caused the property to be again advertised for sale. I met Mr. Stiles, the agent of Mr. Graham, who had bid very high at the first offering, and I urged him to buy the property, representing that my clients did not want it. He informed me that Mr. Graham had
518 changed his opinion as to the value of property like that; would not buy it all on account of the failure of crops and depreciation of property. When the sale day arrived Montgomery & Delony took an injunction.

Int. 5th. There was no combination or collusion between parties within my knowledge to defeat the sale at the first offering of the Mounds plantation under said foreclosure by the sheriff.

Int. 6th. It was again advertised to be sold on the 3rd day of February, 1881, and on the day of sale, just before the hour of sale arrived, Montgomery and Delony took out an injunction, which prevented the sale.

Int. 7th. The sale was arrested by injunction, as before stated; Montgomery and Deloney were the parties who enjoined the sale; they were creditors of the succession of W. D. King to the amount of about $1,400.00. The validity of the mortgages I was seeking to foreclose was not questioned by them or any one else.

Int. 8th. The injunction suit was not tried for several years, because our district judge, Hon. E. J. Delony, one of the plaintiffs, was recused and J. Harvey Brigham, judge of the 6th district court, who was appointed judge *ad hoc*, never came over to try that injunction suit, although I repeatedly urged him to come to this parish for that purpose. I will state here that Judge Brigham
519 was in exceedingly bad health, threatened with consumption, and was not able to keep up with his own docket, and came to East Carroll parish to try recused cases also. Finding that it would be impossible to get a trial here, and *and* in the meantime the complainants, as well as creditors, were pushing Mr. Hall, as administrator of King, to wind up the estate, I advised Mr. Hall, as administrator of the succession of King, to sell off the wild and overflowed lands belonging to King's estate and pay his debts to Montgomery & Delony. Accordingly, Mr. Hall applied for an order to sell the lands on Joe's bayou and Swan Lake belonging to the succession of King. The court granted the order for the sale of [the] property to pay debts and the property was subsequently sold to S. W. Davis and F. M. Hays, I think, for about $1,200.00, and

the money was paid over to Montgomery and Delony in discharge of one of their claims against the estate of King. Complainants subsequently attacked this sale and the court revoked the sale on the ground that the advertisement was for less than 30 days. But the re-cission was conditioned upon the restoration of the purchase price by the complainants to Davis & Hays, the purchasers; this was done. Some years afterwards, finding that we could not get the injunction tried because the judge *ad hoc*, Judge Brigham, would not come, I advised Mr. Hall, in order to pay the creditors of King, who were pressing him, to sell these wild lands
520 again at succession sale. He obtained order of court to sell these lands at succession sale to pay debts. He could not sell the Mounds because it was under seizure in my foreclosures. The lands on Swan Lake and Joe's bayou were subsequently offered for sale, after being duly advertised, and they were adjudicated and sold to Isódore Newman by the sheriff for about $1,600.00, and it was out of his money that the sheriff at my instance paid the second claim of Montgomery and Delony. After Montgomery and Delony were paid in full they consented that the injunction suit should be sent over and tried before Judge Brigham, with an admission that their claim had been settled. Judge Brigham dissolved the injunction. The injunction suit was not compromised. The claim of Montgomery and Delony was paid in full out of the funds arising from the adjudication to Isadore Newman. Mr. Hall never touched the money. The sale was made by the sheriff, and as Mr. Hall's attorney in his relation as *as* administrator of King's estate. I ordered the sheriff to pay over the money in his hands arising from the succession sale to Montgomery and Delony. The money was paid over by the sheriff on the 14th day of March, 1884.

Int. 9th. John A. Buckner did not pay the claims of Montgomery and Delony, nor did he make any compromise or agreement with them. I did not, as counsel for T. L. Airey & Co., or for
521 any one else, make any compromise with Montgomery and Delony in settlement of their claims. About the time Montgomery & Delony took out their injunction Capt. Montgomery and myself had some conversation on the subject of the injunction. Property had then depreciated a great deal, and Capt. Montgomery took the injunction out, as I understood, because he feared the property would not sell for enough to pay the mortgages I was foreclosing, and also the debt due to Montgomery and Delony. He proposed to me to sell the claim to Col. Buckner, and he offered to abate his claim several hundred dollars in order to get the cash and make it an inducement to Col. Buckner to buy it. I spoke to Col. Buckner upon the subject and he declined to enter into the arrangement. I always understood from Col. Buckner that his object was to realize the amount of his mortgage debt. If he had any other purpose in view I am not aware of it. I never had any conversation with Judge Delony in reference to compromising the claims of Montgomery & Delony, nor indeed in reference to the foreclosures of said mortgages by me as counsel.

Int. 10th. The funds were raised by Hall, administrator of King,

to pay Montgomery & Delony in this way: First, by the sale to S. W. Davis and F. M. Hays of the wild lands on Joe's bayou and Swan Lake belonging to the estate of King. This sale real-
522 ized about $1,200.00, which was paid over to Montgomery & Delony in settlement of their claims. As before stated, the heirs of King paid $1,200.00 *doll's* to S. W. Davis and F. M. Hays in pursuance of the decree annul-ing said sale. These lands some time afterwards were again sold by the sheriff at succession sale and were adjudicated to Isidore Newman for about $1,600.00, and out of this fund the other claims of Montgomery and Delony was paid in full. The sheriff obtained the money under the adjudication to Isidore Newman, and I ordered him to pay up in full the claim of Montgomery and Delony, which claim was the basis of their injunction suit.

Int. 11th. The question is answered in my answer to the 10th interrogatory. The wild lands were sold twice. The money realized at the first sale was applied to pay Montgomery and Delony's first claim. The heirs of King caused the sale to be set aside, and some time afterwards this property was again sold at succession sale to pay debts, and out of the proceeds of the sale to Isadora Newman the other claims due Montgomery and Delony by the estate of King was paid in full.

Int. 12th. Yes; Montgomery and Delony had two claims, and they were both paid in full out of claims arising from the
523 two sales, as above stated, of the wild lands on Swan Lake and Joe's bayou belonging to the estate of King. The first claim was paid on the 5th day of February, 1881, and the second claim was paid on the 14th day of March, 1884.

Int. 13th. No; there was no agreement between Buckner and Montgomery & Delony. There was no contract nor compromise as to the claim of Montgomery & Delony with John A. Buckner or any one else that I know of.

Int. 14th. No; property had greatly depreciated, and [no] one could be found to bid as high as had been bid at the first offering. I think the property sold for its full value when it was adjudicated to John A. Buckner. I do not think that any one could have been found at that time willing to bid any higher for the property than was bid by John A. Buckner. I do not think it could be sold now for any higher price. There was no combination or collusion to obtain the adjudication to John A. Buckner. I never saw a fairer sale. I was anxious to sell the property as high as possible, and understood from Col. Buckner that he did not want the property. The mortgage which he obtained from the heirs of King was a second mortgage on the property. T. L. Airey & Co.'s mortgage was the first. As I understood it, Col. Buckner's bid was intended to be to the extent of his mortgage, his object being to save his mortgage debt. I am sure Col. Buckner would not have bought the property if any one had bid higher than his bid or more than the amount
524 of the mortgages. The property did not sell for as much as had been bid at the first offering. The first offering was under the T. L. Airey & Co. mortgage, only it was in the summer of

1880, just after the large crop of 1879, and plantations were regarded then as very valuable. But the crop of 1880 was a failure, and the crops down to the present time have been a series of failures, owing to the bad seasons, worms, and frequent overflows. The Mounds plantation was overflowed in 1882 & 1883, and there was a general depreciation of property when the place was sold, on the 21st of June, 1884, to John A. Buckner, and now there is a great depreciation of values, owing to the misfortunes that have befallen planters in this parish since 1879. I do not believe the property now could be sold for as much as John A. Buckner gave for it.

Int. 15th. Ben. E. Hall was always unwilling for the sale of the "Mounds" plantation; he was anxious to avert the sale when it was first offered, and he was bitterly opposed to the sale at the next offering, when the property was adjudicated to John A. Buckner. He attended the sale and seemed very much hurt when the property was struck off to Buckner. I met him on the street just after the sale, and he seemed to be very blue and despondent. He said that the adjudication to Buckner put him out of his home in his old days, and he seemed to be very much hurt at the conduct of Col. Buckner. He was the universal legatee of his wife, Mrs.
525 Eleonora E. Hall, who owned the *the* place. He was decidedly unwillingly for any sale to be made. Just after the first offering he talked with me very freely, and said he estimated the property to be worth $40,000.00, and thought it a great sacrifice for the mortgage creditors to force the sale. He clung to the idea that with indulgence he could work the property out of debt and save it as his home in old age. He took this position after the property had been struck off to him, and he was unable to pay the bid, and he clung to the idea that the property was im-ensely valuable down to the time it was finally sold to John A. Buckner. I told Mr. Hall he had exag-erated ideas as to the value of the property, and I told him he should have let Mr. Graham have the property at the amount of his bid; that this was enough to pay all the debts and leave him several thousand dollars over, but Mr. Hall could not bear the idea of selling the property. He said that Dr. Keen, the original owner, would not have sold it for $50,000.00, and he thought it was worth $40,000.00 when it was first offered under the foreclosure of T. L. Airey & Co. I told him there had been a big war and a great depreciation of property; that I did not think the property would sell for a higher price than had been bid by Mr. Graham. But I finally yielded to Mr. Hall's importunities and allowed the first sale to be postponed in order to give him an opportunity to confer with T. L. Airey & Co. and obtain an indulgence. This was just after the property had been struck off to Mr. Hall. Notwithstanding the great failures
526 of crops, overflowes, and disasters that have occurred since then to the planters, Mr. Hall seemed to keep up his high estimate as to the value of the Mounds plantation, and when struck off to Col. Buckner at upwards of $20,000.00 he thought the property was sacrificed and he had lost the valuable inheritance that his wife had bequeathed to him. As was before remarked, there was no collusion

between John A. Buckner and Ben. E. Hall or any one else, so far as I know, to secure the purchase by Buckner under the foreclosures of said mortgages.

Int. 16th. I know nothing further than I have stated, except that I believe there was the utmost good faith in the proceedings to foreclose the mortgages. I know that I had no other object than to make money for my clients, T. L. Airey & Co. under the foreclosure of their mortgage. At the first offering I bid for my clients, T. L. Airey & Co., the amount of their debt, interest, and costs, which, I think, was about ($13,000.00) thirteen thousand dollars. Col. Buckner had not then foreclosed his mortgage. He was present. He held the second mortgage, which he bought from the heirs of King. He run up the bid to about ($18,000.00) eighteen thousand dollars, enough to cover his debt and costs. Then the compl*e*tion set in between Mr. Hall and Mr. Stiles, the agent for Mr. Graham, and it was run up to about $31,000.00, thirty-one thousand dollars,
527 and struck off to Hall. I am satisfied Hall was not interposed by John A. Buckner or any one else. Mr. Hall was not used as a tool or an irresponsible bidder to defeat the sale. He was evidently in good faith, and, I have no doubt, honestly believed that the property was worth ($40,000.00) forty thousand dollars, while the total indebtedness of Mrs. Eleonora E. Hall, who bequeathed him the property, amounted, in the aggregate, to only about ($25,000) twenty-five thousand dollars at that time. I think Hall's bidding was prompted simply by a desire on his part to protect his property, and I now believe he would *I* have run it up — ($40,000.00) forty thousand dollars, the amount he told me it was worth, before he would have allowed it to have been struck off to any one else. I know that after the adjudication he was very earnest in his appeals to me for an indulgence and to get the sale postponed. He begged for an opportunity to confer with my clients and to get some indulgence. I told him that he exag-erated the value of the property; that he had better consent to let the property be offered again and adjudicated to Mr. Graham; that Graham's bid would pay all the debts and leave $4,000.00, four thousand dollars, or $5,000.00, five thousand dollars, for him. Hall remonstrated and begged for the postponement of the sale; that he did not want his property sacrificed, as it was worth $40,000.00, forty thousand dollars; that he had a standing crop of cotton; that he thought *he thought* he could make terms with my clients, T. L. Airey & Co. By his earnest appeal I was
528 induced to postpone the sale. John A. Buckner had not foreclosed his mortgage when the property was first offered for sale, on the 19th June, 1880. He did not get his order of seizure & sale signed until 20th Nov., 1880. He had nothing to do with the postponement of the sale in the interest of Mr. Hall on 19th June, 1880. I controlled the sale — of my clients, T. L. Airey & Co. Not having the records of the suits and proceedings before me, there may be some inaccuracies as to dates and and amounts. I am familiar with the facts, and have made my deposition from my knowledge of them.

W. G. WYLY.

Sworn to and subscribed before me on this the 15th day of October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
United States Commissioner.

And after having so sworn the said witness and reduced as aforesaid to writing his answers to the said interrogatories, I caused the said witness to sign his name hereto on each page, as shown herein, on this the 15th day of October, A. D. 1885.

[L. S.] CHAS. R. EGELLY,
U. S. Commissioner.

Received in office, opened, and filed Oct. 26th, 1885.
J. B. BEATTIE, *D'y Clk.*

529 Circuit Court of the United States of America, Fifth Circuit and Western District of Louisiana, Holding Sessions in the City of Monroe, Louisiana.

To any judge, justice of the peace, notary public, or U. S. commissioner residing in East Carroll parish, Louisiana:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you William G. Wyly, a resident of East Carroll parish, State of Louisiana, and him duly examine on the annexed interrogatories on oath touching and concerning certain matters and things in a case now pending in the said court wherein heirs of W. D. King are plaintiffs and Ben. E. Hall, adm'r, *et als.* are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal and send enclosed to this court on or before October 26th, 1885, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Monroe, La., this 8th day of October, in the year of our Lord 1885, and of the Independence of the United States of America the 110th.

[L. S.] J. B. BEATTIE,
D'y Clerk.

[Endorsed:] No. 94. U. S. circuit court. Heirs of W. D. King *vs.* Ben. E. Hall, adm'r, *et als.* Commission.

530 *Citations.*

THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Western District of Louisiana.

The President of the United States to John A. Buckner, Esq'r, of East Carroll parish, Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the second Monday of October next, pursuant to an order of appeal

filed in the clerk's office of the circuit court of the United States for the fifth circuit and western district of Louisiana, wherein heirs — W. D. King are complainants and Ben. E. Hall, administrator, *et als* are defendants, being case No. 94 on the docket of the United States circuit court, fifth circuit and western district of Louisiana, to show cause, if any there be, why the judgment rendered against the said heirs of W. D. King, as in said order of appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 10th day of August, in the year of our Lord one thousand eight hundred and eighty-six.

ALECK BOARMAN, *Judge.*

531 On this 26th day of Aug., in the year of our Lord one thousand eight hundred and eight-six, personally appeared Jas. S. Gibson, U. S. deputy marshal for the west. dist. of La., before me, the subscriber, J. B. Beattie, d'p'y cl'k U. S. circuit court, 5th circuit and west. dist. of La., and makes oath that he delivered a true copy of the within citation to Judge J. T. Ludeling of the law firm of Ludeling & Stillman, att'ys of record in the case of heirs of King *vs.* Ben. E. Hall, admin's., *et als.*, No. 94 on the docket of the U. S. circuit court, west. dist. of La., by handing same to him in person, at his office in the city of Monroe, La., on the 26th day of Aug., A. D. 1886, at 10.15 o'clock a. m.

JAS. L. GIBSON,
D'p'y Marshal.

Sworn to and subscribed before me this the 26th day of Aug., A. D. 1886.

[Seal U. S. Circuit Court for the Western District of La.]

J. B. BEATTIE, *D'y Cl'k.*

[Endorsed:] United States circuit court, western district of Louisiana. No. 94. Heirs — W. D. King *vs.* Ben. E. Hall, administrator, *et als.* Citation. Marshal's return. Filed August 26th, A. D. 1886. J. B. Beattie, d'y clk.

532 THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Western District of Louisiana.

The President of the United States to F. F. Montgomery, Esq., of East Carroll parish, State of Louisana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the second Monday of October next, pursuant to an order of appeal filed in the clerk's office of the circuit court of the United States for the fifth circuit and western district of Louisiana, wherein heirs of W. D. King are plaintiffs and Ben. E. Hall, administrator, *et als.* are defendants, No. 94 on the docket of the United States cir-

cuit court, fifth circuit and western district of Louisiana, to show cause, if any there be, why the judgment rendered against the said heirs of W. D. King, as in said order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, the 10th day of August, in the year of our Lord one thousand eight hundred and eighty-six.

ALECK BOARMAN, *Judge.*

533 On this 17th day of August, in the year of our Lord one thousand eight hundred and eighty-six, personally appeared Jas. L. Gibson, United States deputy marshal for the western district of Louisiana, before me, the subscriber, J. B. Beattie, deputy clerk United States circuit court, fifth circuit and western district of Louisiana, and makes oath that he delivered a true copy of the within citation to Mr. John S. Boatner, of the law firm of C. J. & J. S. Boatner, attorneys of record in the case of heirs of W. D. King *vs.* Ben. E. Hall, administrator, *et als.*, No. 94 on the docket of the U. S. circuit court, western district of Louisiana, by handing the same to heirs in person, at his office in the city of Monroe, La., on the 17th day of August, A. D. 1886, at 10 o'clock a. m.

JAMES L. GIBSON,
D'p'y Marshal.

Sworn to and subscribed before me this the 17th day of August, A. D. 1886.

[U. S. Circuit Court for the Western Dist. of La.]

J. B. BEATTIE,
Deputy Clerk U. S. Circuit Court, 5th Circuit and Western District of Louisiana.

[Endorsed:] United States circuit court, western district of Louisiana. No. 94. Heirs W. D. King *vs.* Ben. E. Hall, administrator, *et als.* Citation. Marshal's return. Filed August 17th, A. D. 1886. J. B. Beattie, d'y cl'k.

534 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Western District of Louisiana.

CLERK'S OFFICE.

I, J. B. Beattie, deputy clerk of the circuit court of the United States for the fifth circuit and western district of Louisiana, do hereby certify that the foregoing 531 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Heirs W. D. King *vs.* Ben. E. Hall, administrator, *et als.*, No. 94, of the docket of the said court.

Witness my hand and the seal of said court, at the city of Monroe, La., this 17th day of August, A. D. 1886.

[Seal U. S. Circuit Court for the Western Dist. of La.]

J. B. BEATTIE,
Deputy Clerk.

I, Aleck Boarman, United States judge for the western district of Louisiana, do certify that J. B. Beattie, whose name is signed to the above certificate as deputy clerk of the circuit court of the United States for the fifth circuit and western district of Louisiana, was at the time of signing said certificate and is now the deputy clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such deputy clerk.

Given under my hand, at the city of Shreveport, La., in said district, this 19th day of August, A. D. 1886.

ALECK BOARMAN, *Judge.*

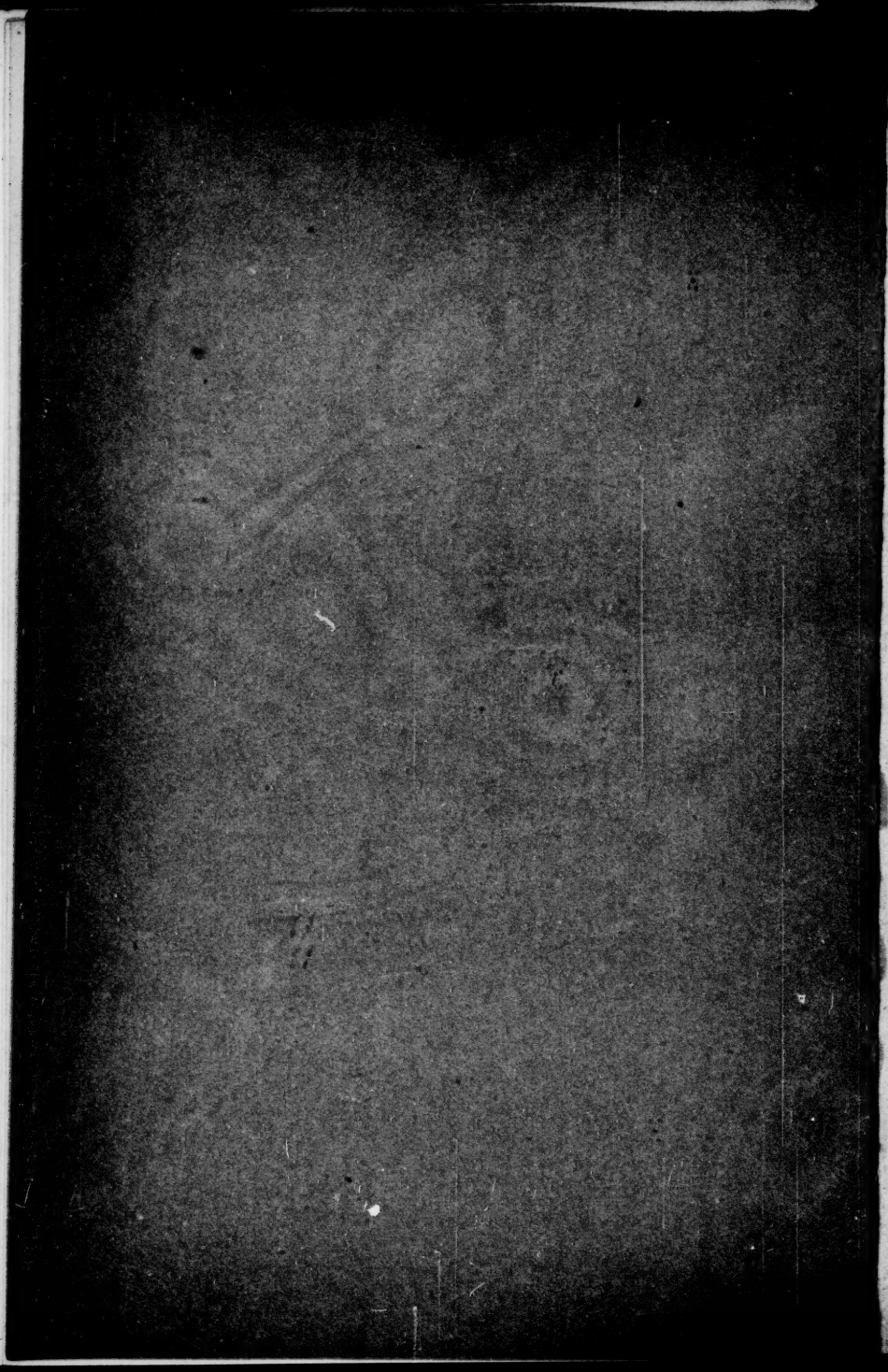
Endorsed on cover: W. Louisiana C. C. U. S. No. 1307. Mrs. Elizabeth Norman and James Norman, her husband, and Eunice King, appellants, *vs.* John A. Buckner, E. J. Delony, and F. F. Montgomery. Filed December 11, 1885.

SUPREME COURT U. S.
FILED.
JAN 10 1887
JAMES H. MCKENNEY,
CLERK.

Supreme Court of the United States.

MRS. E. NORMAN AND HUSBAND AND E. KING,
APPELANTS,
VERSUS No. 1307.
JOHN A. BUCKNER, E. J. DELONEY AND F. F. MONTGOMERY, ET. AL.

MONROE, LA.:
OUACHITA TELEGRAPH JOB PRINT.
1887.



Supreme Court of the United States.

MRS. E. NORMAN AND HUSBAND AND E. KING,
APPELANTS,
VERSUS No. 1307.
JOHN A. BUCKNER, E. J. DELONEY AND F. F. MONTGOMERY, ET. AL.

The plaintiffs, the heirs of W. D. King, deceased, sue Ben. E. Hall, curator of the estate of W. D. King, and John A. Buckner, E. J. Deloney and F. F. Montgomery, as his sureties on his bond as curator of the estate of W. D. King for damages. Stripped of unnecessary verbiage, the bill states that, when W. D. King died, he was the joint owner of the Mounds plantation, with Mrs. E. E. Hall, wife of Ben. E. Hall; that the plantation had been cultivated by them in partnership, and that they had been commercial partners also; that after King's death his heirs, the complainants in this suit, sold to Mrs. Hall, their undivided half of the Mounds plantation and their undivided half of the personal property; and *reserved* for *themselves* the wild and overflowed lands described in the inventory of King's succession.

The price or consideration for this sale was $5,000, and the assumption by Mrs. Hall of the debts of W. D. King.

The bill states that Mrs. Hall died in 1879 leaving a testament whereby Ben. E Hall was nominated executor and constituted universal legatee of Mrs. Hall; and that shortly thereafter T. L. Airey & Co. and John A. Buckner instituted executory proceedings against the Mounds plantation, which was in the possession of Ben. E. Hall, executor of Mrs. E. E Hall. And the bill charges that at the sale under said proceedings, Hall &

Buckner conspired to defraud the complainants, by Hall bidding at the sale over the bid of a responsible bidder to defeat the sale at that time, and that subsequently the property was purchased by Buckner at public sale for $22,000. The bill alleges but for the bidding of Hall the property would have sold for enough to pay all the debts of the succession of King without the sale of the wild lands reserved by them in their sale to Mrs. Hall. The bill further alleges that Hall, *administrator* of King's estate, filed a provisional account which showed that there were debts unpaid, and he obtained an order of Court to sell property to pay debts, and under that order sold the wild lands before mentioned at an inadequate price and at a great sacrifice, and they were damaged thereby to the extent of $11,200, the value of said wild lands. The bill alleges that the heirs were not notified of said sale.

The prayer of the bill is that defendants be condemned *in solido* to pay $11,200 with interest, and that "failing therein complainants may have judgment rescinding the contract of sale between them and Eleonora E. Hall for the *non performance* of her obligations by the vendee."

The answer of *John A. Buckner* admits the following facts: That W. D. King died on the 25th of September, 1877, and that when he died he owned the undivided half of the Mounds plantation, with the movable property thereon, and the wild lands mentioned in the bill; that Ben. E. Hall was appointed and qualified as *curator* of the vacant estate of W. D. King, and not *administrator* as alleged in the bill; that J. A. Buckner, F. F. Montgomery and Deloney were sureties on Hall's bond as *curator* of the vacant estate of W. D. King, that on the 19th of February, 1878, the *heirs* of W. D. King, the *present complainants*, *sold, to Mrs. Eleonora E. Hall, the undivided half of Mounds plantation and other property mentioned in the bill*, which belonged to the succession of W. D. King, but denied that the $5,000, part price of the sale, was cash, as alleged in the bill; *two notes, secured by mortgage on the Mounds plantation*, were given by Mrs. E. E. Hall to said complainants as *the price of said purchase*, besides her assumption of the debts due by W. D. King, deceased; one of said notes, for $2,000, was due 1st January,

1880, and the other, for $3,000, was due 1st January, 1881, with 8 per cent. per annum interest from maturity; and that he, *Buckner, purchased said notes from the complainants themselves*, and paid full value for them. *Mrs. Hall assumed* to pay the debts of the succession of W. D. King, but she did not give any mortgage to secure the promise or assumpsit.

Mrs. E. E. Hall died in the latter part of the year 1879, and an inventory of her estate was made on 31 March, 1880, and Ben E. Hall was confirmed testamentary executor of her testament.

Ben E Hall was instituted universal legatee by said will, but Hall never took possession or seizin of the property as *heir* or *universal legatee*, but only as *executor*, and gave bond therefor. On the contrary, Mrs. Hall's estate was insolvent, when she died, and within sixty days after the succession was opened, *T. L. Airey & Co*, mortgage creditors of Mrs. E E Hall, for over $15,000, (but not Buckner) sued out executory process against her legal representative, B. E Hall, executor, and caused the Mounds plantation to be seized, together with the movables, attached thereto by destination, and the same was subsequently sold to satisfy said mortgage notes, as well as, in part, to pay the two notes given as aforesaid to the present complainants by Mrs. E. E. Hall, and which had been sold and delivered by them to J. A. Buckner.

At the first offering for sale of the Mounds plantation, on the 19th of June, 1880, under an order of seizure and sale against Ben E. Hall, executor of Mrs. Hall's will, under the mortgage in favor of *T. L. Airey & Co*, the property was adjudicated to Ben E. Hall *individually*. The next highest bid having been made by one Stiles, alleged agent of Black. Hall failed to comply with his bid, and the sale was postponed with the consent of the judgment creditor and the executor and universal legatee of Mrs. Hall.

The defendant, Buckner, denies all charges of fraud against him. He denies that he ever influenced or induced or tried to induce, any one, at any time, to bid at the sale, or offering to sell, of the Mounds plantation, with the view to defeat any honest bid, or to prevent a sale at the highest price possible, for the property.

The consideration of the mortgage notes against the estate of

Mrs. E E. Hall in favor of T. L. Airey & Co. was well known to the plaintiffs in this suit, and they knew there was a conventional mortgage on the Mounds plantation, which had been executed by *W. D. King* and Mrs. Hall in favor of *Graham, Black & Co*, on the 28th June, 1877, for $10,000, with interest, to secure a note executed by W. D. King and E. E. Hall, *in solido*, and duly registered. They knew that, before they could sell *their interests* in this property of the succession of W. D. King to Mrs. Hall, the debts secured by mortgages on the property, would have to be paid, and the complainants, or their agent, went with Mrs. Hall to New Orleans to see T. L. Airey & Co. and made arrangements with them to borrow the money to pay the mortgage debt to Graham, Black & Co. due by W. D. King and E. E. Hall. When T. L. Airey & Co. agreed to lend the money on a mortgage on the Mounds plantation, executed by Mrs. E. E. Hall, it was also agreed, between Mrs. Hall, the complainants in this suit, and Airey & Co. that the mortgage to be executed in favor of T. L. Airey & Co. should be *recorded before* the mortgage which Mrs. Hall gave to complainants to secure the notes given by her for the price of their interests aforesaid, and that agreement was carried out, the mortgage, given by Mrs. E. E. Hall to T. L. Airey & Co., executed on the 21st February, 1878, being recorded *prior* to the deed and mortgage made by Mrs. Hall to complainants for the price of their purchase, which is dated 19th February, 1878, but not recorded till after the account to Airey & Co. had been registered. *After* T. L. Airey & Co. had taken measures to foreclose their mortgage, *the complainants in this suit*, having knowledge or notice of said proceedings, and having placed their two mortgage notes aforesaid in the hands of E. D. Farrar, Esq., for collection, *then sold and delivered said notes to John A. Buckner* for the full face value of the first note, then past due, and for the full face value of the second note for $2,000, less 8 per cent. discount, and said John A. Buckner paid the price for said two mortgage notes to the complainants in this suit, in cash, and received said notes from them in good faith, and he had a perfect right in law and equity to foreclose his

mortage, as had also T. L. Airey & Co.

Ben. E Hall, *curator*, filed an account of the succession of W. D. King, about the time of the foreclosure of the mortgage of T. L. Airey & Co., but he did so under compulsion by order of a court having jurisdiction and against his protest. The *complainants* themselves obtained an order of court commanding him to file the account, and then took a rule against him for contempt of court for failing to obey the order—Hall, curator, contending that, in as much as the *heirs*, who were all of age, had sold all of the property of the succession except the wild lands of little value, which they reserved for themselves, there was nothing further to administer, at least, so far as the heirs were concerned.

Buckner alleged that the complainants have no further rights or interest in the succession of W. D. King, having sold their interest in the succession of King, except the wild lands which they claimed to control, and which they compelled Hall, curator, to sell to pay debts of the succession, to close his administration, by their proceeding against him in the Probate Court—that the estate of W. D. King had been practically closed, all the creditors thereof, except the curator himself, having been paid, and all the property having been sold under orders of court, according to law, and accounted for in his provisional accounts and final account which were duly notified to the attorney of absent heirs.

Buckner avers that Hall, curator, did not act illegally or wrongfully in causing the sale of the wild lands of the succession of W. D. King to pay debts of the succession—he was forced to do so under the orders of the Court of Probate rendered at the instance of complainants themselves and creditors of the succession—he acted in good faith and in accordance with law, and used only such measures as were in his power to comply with the orders of the Probate Court.

The first sale of the wild lands was set aside *because* the *sale had not been advertised* FOR THE PERIOD required by law, but it is denied that said Hall, curator, or his surities are responsible for that. The proceedings were conducted under the advice of the legal adviser of the curator, and by the officer whose duty it

is by law to make such sales, and he acted in good faith.

He avers that the question of *fraud* or collusion, in regard to the sale of said wild lands, was raised in a suit in a monition proceeding under the laws of Louisiana in which the complainants in this suit charged fraud and collusion on the part of the curator, and that the court of the final resort decided that there had been no fraud in the proceedings, and this defendant plead that judgment as *res judicata* on that question raised in this case. The price paid at said sale was applied to the payment of debts of the estate of W. D. King, and the court held that the purchasers would have to be refunded the money they had paid before the sale of said wild lands should be rescinded, and the heirs, the complainants, paid the same, about $1,200—but they thereby acquired no right against the curator or his sureties, and the heirs, the complainants, insisting that the curator should proceed to close the estate and file his final account, when there was no other property but the wild lands to dispose of to pay debts, he again obtained an order of court to sell those wild lands, which was sold legally and fairly for their full value, $1,677 14, and the proceeds thereof were applied to the payment of debts of the estate of W. D. King.

Ben. E. Hall, the curator, did not leave the State without filing his final account. He had filed two provisional accounts, and after the second sale of the wild and overflowed lands, having paid with the proceeds of said land all remaining debts of the estate, except what was due to himself, he filed his final account, with his vouchers, and no opposition has ever been filed to said account. This final account was duly notified to the attorney of absent heirs, who alone represented the absent heirs, the accounts are copied in the transcript at pages, R. p. p. 45, 60, 61.

The charges of fraud and collusion in relation to the wild and overflowed lands, as well as in relation to the sale of the Mounds plantation are denied. He denies that the Mounds plantation was worth $40,000; it was not worth more than $22,000 when it was adjudicated to Buckner, and the sale was a fair, open and

public sale, under an order of a court of competent jurisdiction, and Buckner's object in bidding was for the purpose of securing his rights as holder of the mortgage notes for upwards of $5,000, transferred to him by the complainants themselves, which notes were secured by a mortgage *only second* in rank on the Mounds plantation—that of Airey & Co. for $17,745 36 being first in rank. That in order to realize anything from the sale of the property mortgaged, he had to make it bring over $17,745.36; that he bid $22,000, and paid $17,745.36 to satisfy the T. L. Airey & Co.'s mortgage, and the remainder of his bid, $4 254 64, was applied to his own mortgage.

For answer to that part of the bill which charges that the *price* of the sale of the interests of complainants in the property of the succession had not been paid and asks for a rescission of the sale on the grounds of non-performance, Buckner says that the price, to-witt: the two notes for $5,000, given by Mrs. Hall to complainants, were sold to this respondent who paid the complainants the price agreed upon, and the mortgage note of Graham, Black & Co. for $10,000 with interest, due by W. D. King and Mrs. Hall was taken up and paid and that the said Mounds plantation was sold under these two mortgages, and did not bring enough to pay the second.

Buckner bought the property in good faith at a public sale and has been in the actual and quiet possession of the plantation since 21st of June, 1884, and complainants have not tendered him the price he has paid for said property, to-wit: $22,080 which sum enured to the benefit of said estate and said complainants, and under the laws and jurisprudence of Louisiana, as well as in good conscience, it is a condition precedent to the institution of an action of rescission that the price paid by responent should be tendered to him—which has not been done.

The respondent further submits that the plaintiffs have not, in their bill, shown any case in equity, or case entitling them to proceed against him in this Honorable Court, and he prays that all such benefit as if he had demurred to said bill, and he prays

that the bill be dismissed with costs. There was judgment dismissing complainants' bill and they appealed.

I.

From the foregoing statement of the allegations and admissions in the bill and answer and the evidence it appears that the wiid and overflowed lands belonging to the estate of W. D. King were sold twice at public auction, under orders of the Probate Court to pay debts of the estate. The first sale was set aside by decree of the court at the instance of the heirs of King, the present complainants, because the property had not been advertised long enough, *on condition* that the purchase price should be refunded to the purchasers. The money realized from that sale having been used to pay the debts of the estate of King, the curator had none wherewith to refund the purchase money, and the heirs did so. They were *personally* bound for the debts, having accepted the succession by selling the bulk of the property to Mrs. Hall. The second sale was made several years afterwards, under an order of court to pay debts, and the price realized again was used to pay the debts of the estate of W. D. King. At the first sale the property sold for about $1200, at the second sale, for $1677 14.

The Mounds plantation and all other property of the estate of W. D. King except the wild lands were sold by *the heirs* to Mrs. Hall shortly after the death of King. Four years after the death of King the Mounds plantation was sold under an order of seizure and sale, against Hall, *executor of Mrs. Hall*, the vendee of the complainants, under the mortgage executed by Mrs. Hall to Airey & Co. for money borrowed to pay the debts of King and Hall and another order of seizure and sale against Hall, *executor*, under *the second mortgage* held by Buckner *to secure the notes given in consideration, in part, of the sale of the interest of these complainants* in the *estate of W. D. King*.

The complainants charge that through the fraudulent conspiracy between Hall and Buckner the sale of the Mounds plantation was prevented and that the price then bid by Stiles was sufficient to pay all the debts of the estate of King, and leave the wild lands for the heirs of King, which *they say* was worth $10,000.

And they charge that Ben. E. Hall and his sureties are responsible in *damages* for their loss of the $1,200 they paid to redeem the wild lands from the first purchasers, and they say, if the court refuse to grant these demands, then the sale of the interest of the heirs in the property of the estate of King should be annulled for non-payment of the price.

II.

In the Circuit Court, the complainants' counsel in his oral argument withdrew the charge of fraud against Buckner and the parties to the sale of the Mounds plantation, but he contended that the sale of the wild lands was illegal, because they were sold without giving *the heirs notice* of the sale, and because Mrs. E. E. Hall had assumed the payment of all the debts of the estate of King when she bought the interests of the heirs in that succession, except to the overflowed wild lands mentioned already. The court held that the wild lands were properly sold to pay the debts of the estate; that no notice to the absent heirs was required by the laws of Louisiana, except that which was given to their legal representative, the attorney of absent heirs appointed by the court to represent them and the advertisements of the sale, and that the wild lands sold for the appraisement and their value, and no injury was done by said sale. That the sale of the Mounds plantation was regular and fair and for a fair price; that in the proceedings to foreclose the mortgage of T. L. Airey & Co. Ben. E Hall acted in a dual capacity, as executor of his wife's succession, and individually as universal legatee, and *not as curator* of King's estate, and that the charge of conspiracy and fraud against Buckner is not proved.

III.

It would seem that a statement of the facts in this case is all that is necessary to sustain the opinion and judgment of the Circuit Court.

If it were true that the sale of the wild lands were *illegal*, for the want of notice to those who were entitled to it, that might be a ground for annulling the sale, contradictorily with the *vendee*, as was done in the first sale, but not a cause for claiming

damages against the curator and his bondsmen. But the proper legal notice was given. The evidence shows that the wild lands sold each time at *their appraisements*, at public auction, and there is no proof that they were or are worth any more than the price for which they were sold.

The complainants' bill alleges that the lands, "although *without a market value at that time*, owing to the unsafe condition of the public levees on the Mississippi river and their consequent liability to overflow, were intrinsically very valuable, and would have come into demand as soon as the works undertaken by the River Commission afforded adequate protection from overflow, and were well worth $10,000!" And the testimony of their own witness, Egelly, shows that lands like those in question, were sold at public sales at from 50 cents to $1.50 per acre, and there was very little or no demand for them at those prices, and this was undoubtedly the truth then, *and is now*—R. 221.

nI the inventory of the succession of W. D. King these wild lands are appraised at *one dollar* per acre—R. p. 11.

This is all that the curator could be held responsible for, unless it be provod affirmatively that he sold them for more. In the inventory of the property of the succession of Mrs. Hall, made in 1880, wild swamp lands like these belonging to the estate of King were appraised at $1.25, before Chas. R. Egelly, notary, the same person who testified in behalf of claimants in this case.

The attention of the court is directed to an error in the record in the answers of Egelly on page 221. He testified that he had given in the swamp lands (which he had for sale) for assessment at ($1,000) one thousand dollars, and not at $10.00, as appears in the record. That is manifest from his other answers. For instance, he says that he is authorized to sell one tract at $5 per acre. Surely he wouldn't have it *assessed* for double that sum. Besides, in the same answer, he says "The valuation is very small." The object of the testimony of Mr. Egelly clearly was to prove that while there was no *present demand* for these lands, still the *owners* of *them* were not willing to sell them, as they

would become very valuable in the future.

But they utterly failed. His principals were anxious to sell, and he answered as follows the questions asked: "Don't you know that most of these lands could be bought for $1.00 or $1.50 per acre?"

A.—"Yes, sir; a great many of them. I think a great many of them have been sold to the State." That is no one would pay the taxes for them.

"Don't you know from having taken testimony in a great many cases, having seen the deeds before you, that a very large quantity of these lands have been sold at from 50 cents to $1.50?"

A.—"Yes, sir."

"What do you mean by saying you would be willing to give $5.00 an acre, then, for these lands?"

A.—"As an investment; that is the reason I qualified my answer," &c. R. p. 221.

The testimony of the complainants was objected to. (See motion to suppress in R. p. 167.) It is evident that they only testified to what they had been told, by some party not himself informed. One of the complainants says J. M. Kennedy, their own witness, had been appointed attorney of absent heirs, and had been employed against them, which is altogether a mistake. He was not appointed attorney for absent heirs. Chas. M. Pilcher was the attorney of absent heirs. R. p. 11. And Kennedy was employed by the husband of one of complainants. Rep. p. 39.

They were also misinformed about the character and value of the swamp lands.

It appears that in the proceedings in the Probate Court in the succession of W. D. King, complainants, through their attorneys, Farrar, Spencer & Farrar, and *J. M. Kennedy*, filed a rule against Ben. E. Hall, curator, to file an account—on the 15th of May, 1880—and on the 10th of December, 1880, they took a rule for contempt against Ben. E. Hall, curator. R. p. p. 36, 38, 39.

In his answer to this rule for contempt, Hall alleged substantially the facts, already stated herein, relative to the agreement;

and contracts between the heirs of King and Mrs. Hall, and alleged that the heirs through their agent had assumed control of the only property of the estate of King left unsold by them, to-wit: the wild lands. Pending the action of the court, on this rule for contempt, after reciting the facts in relation to the actions of the heirs relative to the order to account and to wind up the estate and for contempt, and of creditors of the estate to compel him to sell property to pay debts, Hall, curator, avowed his willingness to obey the order of the court, and in order to enable him to do so, he asked for an order of court to sell *these wild lands*, the *only property remaining undisposed of* BY THE HEIRS. R. p. p. 39, 40, 42.

On the 27th of December, 1880, the court rendered the following order: "Upon reading and considering the foregoing application for sale of property of the succession of W. D. King to pay debts, without considering or passing upon the issue raised therein as to the heirs, and holding that all the property of said succession as shown by the inventory *is subject to the debts due by the same*, it is ordered that sufficient property of said succession be sold to pay the same." &c. The wild and overflowed lands were sold under this order of the court, and the proceeds accounted for. See account filed 11th of June, 1881, R. p. p. 45, 53, et. seq. 61.

Again, on the 16th November, 1883, reiterating what he had said in this answer to rule for contempt, the curator asked for an order to sell the wild lands, which was granted, the sale was made and the proceeds paid by the sheriff to the creditors, who had enjoined the sale of the Mounds plantation under orders of seizures and sale. See order to sell property, R. p. 58.

The final account was filed on the 21st of April, 1884, and ordered to be published, and service of the petition and account and vouchers was acknowledged in writing by Chas. M. Pilcher attorney for absent heirs, on same day. R. p. 61.

No opposition has been filed to this final account.

On the 6th of May the injunction was dissolved, and the Mounds plantaion was sold by the sheriff for a full price to

John A. Buckner, the holder of the second mortgage, in perfect good faith.

That the charges of fraud made against Buckner were unfounded is shown by the evidence conclusively. See Buckner's testimony, at page 233 of record, testimony of W. G. Wyly, at page 240 of record, and testimony of W. B. Keene (225) J. M. Compton and E. W. Constant, at page 227 of record and testimony of Taylor, page 229 of record. These last witnesses were present, when they heard John A. Buckner express his disapproval of the act of Hall in bidding over the last bid of Stiles, just after the adjudication and on the same day. Wyly, the attorney for Airey & Co., who had foreclosed their mortgage, explains fully why he consented to postpone the sale, and that J. A. Buckner had nothing whatever to do with the postponement thereof. Buckner, himself, in his testimony, emphatically denies any collusion with any one and his disapproval of the bidding by Hall.

There is not a particle of evidence to show fraud on the part Bucker, or of any one. He had absolutely nothing to do with the sale at the first offering, further than to bid to the extent of the mortgage debts at that time, so as to make the property fetch enough to pay his debt, which was secured by a mortgage second in rank on the property.

The evidence shows that Wyly, the attorney of Airey & Co., bid against Stiles, agent of Black, up to the amount of Airey & Co's. debt—then Buckner continued the bidding up to the amount of Airey & Co's. debt and his own, and then Hall continued the bidding.—Testimony of Kennedy, R. p. 178, 179, Testimony of Wyly, R. p. 245.

Had Hall not bid, the property would have been adjudicated to Black for about $17,000—$5,000 less than Buckner subsequently bid for it!

After the adjudication to Hall, he applied to W. G. Wyly, the attorney of Airey & Co. for time to see Airey & Co. to make arrangements for the payment of their debt.

Judge Wyly says "the property was adjudicated to B. E.

Hall for about $31,000. Hall was universal legatee of his wife, Eleonora E. Hall. When the adjudication to him occurred, I think the sheriff gave him two hours to comply with his bid by paying the money. He came to my office and begged me to postpone the sale in order that he might confer with Messrs. T. L. Airey & Co, and get some indulgence. Hall represented that he had a good crop growing that year, and he thought he could make some arrangements with T. L. Airey & Co. and work out the debt. He seemed to have an exaggerated idea of the value of the property, *which was his, after the debts of his wife were paid.* As I regarded the property worth the amount of the mortgage debt, and believing Mr. Hall might prevail on my clients for a little indulgence, I agreed to postpone the sale, at the earnest solicitation of Mr. Hall. Some time afterwards I caused the property to be again advertised. I met Mr. Stiles, the agent of Mr. Black, who had bid very high at the first offering, and I urged him to buy the property, representing that my clients did not want it. He informed me that Mr. Graham had changed his opinion as to the value of property like that, and would not buy it all, on account of the failure of crops and depreciation of property. When the sale day arrived, Montgomery & Delony, creditors of W. D. King, took out an injunction."

Montgomery and Delony had been partners in practising law, and Delony was then the District Judge of East Carroll, so that the case had to be referred to a judge of the adjoining district. Judge Brigham, to whom the case was referred, was in bad health, and did not go to East Carroll for some considerable time, and thus the second sale under the foreclosure proceedings was delayed a long time. *J. A. Buckner* had nothing to do with any of those proceedings, either directly or indirectly, further than this, that he bid $17,000 at the first offering. After Judge Brigham dissolved the injunction, the second sale of the Mounds plantation was made and J. A. Buckner became the purchaser of the plantation for $22,000. The property did not realize enough to pay Buckner's mortgage notes, purchased from the complain-

ants.

The heirs seem to have ignored their own acts, or not to have known their effect. W. D. King died on the 25th of September, 1877. On the 19th of February, 1878, *they* sold all the property of W. D King, except what they reserved, as heirs of King, to themselves. R. p. p. 65, 66. By this sale they accepted the succession, and became personally liable for all the debts, and became the *owners* of the property, subject *only* to the *creditors' right to demand* a separation of patrimony, *within ninety days from the date of the sale.* "The simple acceptance may be either express or implied."

"It is express when the heir assumes the quality of heir in an unqualified manner, in some authentic or private instrument, or in some judicial proceeding.

It is tacit, when some act is done by the heir, which necessarily supposes his intention to accept, and which he would have no right to do but in his quality of heir." C. C., art. 988.

"All these acts of ownership, which the person called to the succession can only do in the quality of heir, suppose necessarily his acceptance, for to act as owner, is to make himself heir." C. C., art. 994.

"The donation, sale or assignment, which one of the coheirs makes of rights of inheritance, either to a stranger or to his coheirs, is considered to be, on his part, an acceptance of the inheritance." C. C. Art. 1002.

"The effect of the simple acceptance of the succession, whether express or tacit, is such, that when made by an heir of age, it binds him to the payment of all the debts of the succession, not only out of the effects which have fallen to him from the succession, but even personally, and out of his own property, as if he had himself contracted the debts, or as if he were the deceased himself; unless before acting as heir, he make a true and faithful inventory of the effects of the succession, as here above established, or has taken the benefit treated of hereafter," &c. Civil Code, art. 1013.

"The creditors of the succession may demand, in every case

and against every creditor of the heir, a separation of the property of the succession from that of the heir. This is what is called the *separation of patrimony*." Civil Code, art. 1441. "The effect of this demand, on the part of the creditors of a succession, is to cause them to be paid from the effects of the succession in preference to the creditors of the heir." C. C., art. 1446.

"The suit of separation of patrimony must be instituted *within three months* from the express or tacit acceptance of the heirs; *after the expiration of this term, it is not admitted.*" C. C., art. 1456.

Therefore the *creditors* or heirs, *as such*, of the succession of King, had no rights or claims on the property sold by the heirs and delivered to Mrs. Hall, after three months from the date of their act of sale, 19 h February, 1878. The first offering for sale of the Mounds plantation was on the 19th June 1880. The proceeds of that sale, if it had been completed, would have gone to the *executor* of *Mrs. Hall's* testament and to the payment of *her creditors*.

That the Mounds plantation was sold for its full value is proved by the following evidence:

1st. The appraisement in the inventory of the estate of W. D. King, of the undivided half of Mounds plantation, made in October, 1887, is $9,425.

21. The complainants sold their undivided interests in the Mounds plantation and all the other property of the succession of W. D. King, except the wild lands, for $5,000. and the assumption by Mrs. Hall of the debts, which amount to $13,838, as shown by the accounts and vouchers filed, R. p. p. . These debts, except fees and costs for administering the succession, were the partnership debts of W. D King and Mrs. Hall, consequently she assumed to pay half, about $7,000, for the succession. The price, therefore, for which the complainants sold the half of the Mounds plantation and upwards of $10,000 of personal property, and assets was about $12,000. This sale was made on the 19th of February, 1878. R. p. 63.

3d. The concurring testimony of all the witnesses fixes the value at $20,000. See testimony of Mobberly, R. p. 185; of Blum,

p. 187; Belden, d'y sheriff, p. 190. Kennedy says he knows but little about the value of the plantation, *but supposes* about $25,000 or $30,000.

These complainants' witness, Delony, says Hall's bid "was largely over the real value of the property." R. p. 200.

W. Bodein Keen says "Nineteen or twenty thousand dollars was the actual cash valuation of the Mounds plantation on the day it was sold to J. A. Buckner. I was familiar with said plantation, same having been the property of my grandfather," &c. R. p. 226.

Compton, Constant, and Taylor, who say they are well acquainted with the plantation, fix the value thereof under $20,000, R. p. p. 227, 228, 229.

Wyly and Buckner testify to the same effect. R. p. p. 243, 234.

That the curator of the estate of King was not in fault in making the sale of the wild and overflowed lands to pay debts is manifest from the decision of the court in the proceedings against the curator to compel him to render an account and for contempt by the heirs of King, the present complainants, already quoted in part, to-wit: "Upon reading and considering the foregoing application for sale of property of the succession of W. D. King to pay debts, without considering and passing upon the issues raised therein as to the heirs—and *holding that all the property of said succession* as shown by the inventory is *subject to the debts due* by the same—it is ordered that sufficient property of said succession be sold to pay the same." R. p.

The heirs had sold all the property of the succession, except these wild lands, so that there was nothing else to do but to sell the wild lands. Besides at the time the second sale of the wild lands was made, the Mounds plantation was under seizure under orders of seizure and sale granted under the mortgages in favor of Airey & Co. and J. A. Buckner before mentioned against the property and was not in the possession or under the control of the curator.

The pretext that the complainants did not know of the debts

or of the orders to sell property is unreasonable. It was in consequence of their own proceedings against the curator to compel him to render his final account, that he had to sell the wild lands to pay the remaining debts.

It is manifest that the agreements between Mrs. Hall and the heirs of King, the complainants, did not prevent the creditors of King from enforcing the collection of their debts by a sale of the property in the possession of his succession.

It is equally clear that the curator of King's succession could not have taken the Mounds plantation out of the possession of the sheriff, who held the plantation by virtue of seizures under the orders of seizures and sale granted by a court of competent jurisdiction for enforcing payment of the mortgage debts on said plantation, even if the creditors could have treated as a nullity the sale of the Mounds plantation by the heirs, the present complainants, which is denied.

It is certain the heirs, who sold that plantation to Mrs. Hall, and who received the price thereof, and who complain because Hall interfered at the first offering for sale of that plantation, under Airey & Co's. mortgage, cannot now be listened to, when complaining that the curator of the succession did not treat, *as nullities, their* sale of the Mounds plantation, and the seizure thereof, under orders of seizure and sale granted by a court of competent jurisdiction, on mortgages made thereon with the sanction and agreement of the *complainants themselves*, to settle debts due by W. D. King, through whom they claim. If ever the principle of estopel should apply it should here.

Were the wild lands legally sold? This is the only question insisted upon the in lower court, by complainants. They contend the sale was not legally made because, *they say* the *heirs* were not notified of the necessity for a sale, or of the sale.

The statements already made in this brief and in the references to the record, show that the *heirs*, through *their own attorneys of record*, Farrar, Spencer & Farrar and Kennedy must have known that there were debts to pay, and that the property was advertised for sale. The application for the sale was the conse-

quence of their proceedings against him to account. But neither fact was necessary to make the sale valid. The duties and powers of the curator terminate only "when the heirs or other persons having a right to the succession, administered by them, present themselves, or send their power of attorney, *to claim the succession* and comply with the requirements of article 1012," Civil Code, art 1192. "When the heirs, or other persons having a right to a succession, present themselves, or send their powers of attorney to claim it, *they are bound to cause themselves to be recognized as such and shall be put in possession by the Judge of the place where the succession is opened, after having cited the curator who has been appointed for the succession.*" C. C., art. 1193. This was not done in the succession of King. The counsel for absent heirs shall continue to act as such until the heirs present themselves, or send their powers of attorney to claim the succession, or until the curator is finally discharged." C. C., art. 1216.

Therefore, notwithstanding the complainants had rendered themselves liable for the debts of the succession by their tacit acceptance thereof, by selling the property to Mrs. Hall, still the succession continued under the administration of the curator, as to the property which remained undisposed of; and when the curator applied for an order to sell that property to pay debts, no one but the *attorney of absent heirs* was entitled to notice thereof. That the attorney of absent heirs was notified of this application *is not denied in the bill* of complainants. The complaint is that the curator filed an account showing that there were debts due to the amount of $2,139, "and prayed for the sale of property of the succession to pay debts; and the prayer of said petition was granted and a decree rendered thereon, *without any notice to complainants.*" R p. 2.

On page 3, the bill recited that "Ben. E. Hall again, without proceedings *contradictorily* with COMPLAINANTS and without *notice to them* of any kind whatever, obtained a decree for a sale of the property to pay debts." R. p. 3.

Neither is it denied that there were debts to pay. The presumption "*omnia rite acta*" applies to the order and decree of the

judge and the action of the curator and of the attorney of absent heirs. In Gibson vs. Foster, the Supreme Court of Louisiana said, the ground taken by the intervenors" (that the order to sell property had not been rendered contradictorily with the attorney of absent heirs) "goes to charge the curator and the court with a culpable neglect of duty, and *it must be proved by them*, though it involves a negative." 3 Martin, N. S. 576; 1 Greenleaf on Evidence, Nos. 19, 20, 21, 80. 2 An. 508.

There was no evidence offered on this subject whatever, only portions of the record of the succession of King were attached to the bill as exhibits, for other purposes, and they show the following facts, viz:

The curator of the vacant succession of King filed a petition representing that there were debts of the succession unpaid, and asked for the sale of the wild and swamp lands to pay debts, and on the 16th day of November. 1883, the Judge of the Court granted the following order: "The foregoing application considered, it is ordered that the property of said succession be sold as prayed for, and that a commission issue to the sheriff to make said sale in order to pay debts of the estate." R p. p. 57, 58. The sale was made. See returns of the sheriff, R. p. 59. On the 21st of April, 1884, the curator filed his final account, and on that day the Judge of the District Court rendered the following order: "The foregoing petition and final account considered; it is ordered *that notice* of the same be made according to law, and that if no opposition be made thereto within the legal delays the same will be homologated as prayed for. Done and signed in chambers on this 21st day of April, 1884." R. p. 61.

"I hereby accept service of the foregoing petition, final accounts and vouchers presented by Ben. E. Hall, administrator, praying for homologation thereof and for his discharge, this 21st day of April, 1884.

CHAS. M. PILCHER,
Attorney for Absent Heirs."

R. p. 61.

In the succession of Hebrard the Court said: "The sole object

of the law, in making the attorney of absent heirs a party to an application for a sale" (was) "in order to ascertain, contradictorily with *him*, if such a sale was necessary." 18 An. p. 496.

It is manifest from the foregoing endorsement of the attorney of absent heirs, that he admitted the necessity of the sale and approved of the disposition of the proceeds thereof.

But if the plaintiffs had alleged that no notice of the application to sell property had been given to the attorney of absent heirs and had proved that allegation, the sale would still have been valid—the article of the Civil Code, directing notice to be given to the attorney of absent heirs, of the application to sell property by the curator being only *directory*. In Gibson vs. Foster, 2 An. p. 509, the court said: "But if it were true that *no attorney had been appointed to represent the absent heirs* when the decree ordering the sale was made, the decree would not be an absolute nullity by reason of the omission. The curator was the representative of the succession, and had the capacity to provoke the sale of its property. The act of 1817, making it his duty to prove contradictorily with the attorney of absent heirs, that the sale was advantageous or necessary, is *merely directory*."

In the succession of Wadsworth, 2 An. p. 967, the Supreme Court again said: "It is said that the order of court under which the sale was made was irregular, having been obtained without citation of the attorney appointed to represent the absent heirs. The counsel has referred to Articles 1042 and 1157," (old code,) "the former subjecting administrators to the same duties and responsibilities as curators, and the latter declaring that the curator's petition for the sale of the real estate must be notified to the attorney of absent heirs, contradictorily with whom the order of sale must be made. This legislation is substantially the same, as regards the point under consideration, with the act of 1817.

In interpreting that statue we held in Gibson vs. Foster, *ante* 503, that the curator was the representative of the succession and had authority to provoke the sale of the property, and that the omission to cite the attorney of absent heirs did not involve the

absolute nullity of the judgment," &c.

What damage has been inflicted on the heirs, by the sale of the only property of the succession, undisposed of by them, to pay the debts of the succession, for which the heirs had rendered themselves liable by their tacit acceptance of the succession? The property sold for its full *present* value—that is not denied—and the proceeds thereof were applied to the payment of the debts of the succession.

The complainants have not tendered or offered to return to Buckner or to their vendee Mrs. E. E. Hall or her representative, the price given by them for the Mounds plantation and other property of the succession. This is a condition precedent to an action for the rescission of the sales.

In the 30th An. Reports, the Supreme Court of Louisiana said: "This doctrine has been recognized and enforced in numerous cases, in which it was decided that the offer to return the consideration received is a condition precedent to the right of action to rescind a sale or contract. Jaseni vs. Franklin, 4 La. 198; Bassett vs. Ballard, 19 La. 281; Stockton vs. Downy, 6 An. 174; Chambers vs. Wortham, 7 An. 113. In Brown vs. Bonny, 30 An. 174, the mortgagor died, and the mortgagee proceeded *via executiva*, in ignorance of her death. The sale, the whole proceedings were void; but the money was applied to the payment of the mortgage debt. The heir of the mortgagor sued to recover the property. The Court recognized the doctrine in Coiron vs. Daquen, and the subsequent cases cited above, and said: "No court, under the fact disclosed by this record, would give this plaintiff this property, without first requiring him to make restitution and when this want of restitution or offer of restitution, was set up by way of exception, the court properly maintained it." The cases of Coiron vs. Daquen, Berrelli vs. Gauche and other decisions of the Supreme Court of Louisiana were cited approvingly in Davis vs. Gaines, 104 U. S. Reports, p. 404.

In conclusion defendant, J. A. Buckner, cites the case of Newell vs. Norton, 3 Wall., p. 267, in which this Honorable Court said: "It is enough to say we find ample testimony to

support the decision, if believed; and that we again repeat, what we have often decided, that in such cases, parties should not appeal to this court with any expectation that we will reverse the decision of the courts below, because counsel can find in the mass of conflicting testimony enough to support the allegations of appellant, if the testimony of the appellees be entirely disregarded."

Respectfully submitted,

JNO. T. LUDELING,
Counsel for J. A. Buckner.

Office Supreme Court, U. S.
FILED.
MAR 21 1890
JAMES H. McKENNEY,
Clerk.

Supreme Court of the United States.

NO. 1307.

MRS. ELIZABETH NORMAN and JAMES M. NORMAN her husband, and EUNICE KING Appellants,

vs.

JOHN A. BUCKNER, E. J. DELONEY and F. F. MONTGOMERY.

Appeal from the Circuit Court of the United States for the Western District of Louisiana.

BRIEF OF COMPLAINANTS AND APPELLANTS.

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BRIEF OF COMPLAINANTS AND APPELLANTS.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

MAY IT PLEASE YOUR HONORS:

This bill is filed by the complainants, as next of kin and heirs at-law of W. D. King, deceased, to recover from the defendants, as principal and sureties on the bond of his administrator, the value of the property of the estate, charged to have been wrongfully alienated by the administrator; to recover from said defendants, as principal and sureties aforesaid, the sum of twelve hundred dollars paid by the complainants as heirs aforesaid, to redeem the property from the purchasers at the first sale; and in the alternative, to recover from the defendant Buckner the undivided one-half of the Mounds

plantation, because of the failure of the purchaser to comply with the terms of the sale.

The facts are: That King died in the parish of East Carroll on September 25, 1877, and that on September 27, 1877, Ben. E. Hall applied for the administration of his succession. Trans. p. 10.

That on October the 16th, 1877, he was appointed administrator, and on the same day qualified and gave bond, with John A. Buckner, F. F. Montgomery, E. J. Deloney, and E. A. Hall, as sureties, in the sum of $26,000, p. p. 33. That on October 20th, 1877, Hall applied to the Court for authority to borrow money for necessary expenses of the succession, and the order was granted, with the consent of Norman as agent and attorney in fact of the heirs, p. 34.

That on November 30th, 1877, Hall applied for and obtained an *ex parte* order to sell the stock of cattle and horses on the Manning place, belonging to the succession, p. 36.

Inventoried at $1,052, p. 26.

Total inventory $20,804.37, p. 32.

That on February 19th, 1878, the complainants sold to Mrs. Ellenora Hall, wife of Ben. E. Hall, authorized by her husband, the undivided half of the Mounds plantation, the undivided half of the stock in trade, goods, chattels, merchandise, bills, bonds, notes, books, claims, demands, cases in action, judgments, evidences of debt, and property of any nature or kind whatever of the store on the plantation, and of the personal property attached to the aforesaid Mounds plantation, for the price and consideration of two notes for the sums of $2,000 and $3,000, secured by special mortgage, and vendors lien, and *pact non alienando*, on the property.

"And the said Mrs. Ellenora Hall moreover assumes and binds herself to pay, and discharge, all the outstanding indebtedness of the succession, or estate of said deceased, W. D. King, as also all taxes due on the property, p. 63,

That on February 21st, 1878, Mrs. E. Hall mortgaged the Mounds plantation and appurtenances, to T. L Airy & Co., to secure three notes for $17,504.50, p. 82.

That it does not appear when these mortgages were recorded, and there is no evidence of any waiver of the vendors lien.

That on May 15th, 1880, the complainants, by Spencer and Farrar, attorneys, petitioned for an account of Hall's administration, and that he was ordered to render an account, p. 36.

That this order was notified to the curator May 17th, 1880, p. 38.

That no answer having been made, a rule for contempt was taken December 10th, 1880, p 38.

That on December 10th, 1880, Hall made answer to the rule, that by the acts of the complainants he had been stripped of the administration, and all control of the estate, p. 39.

That on December 23d, 1880, Hall filed another answer, in which he alleged that "In said purchase the said Mrs. Hall assumed the payment of all the debts of the succession, and in pursuance of said assumption she paid the large mortgage debt of $10,000 to Graham, Black & Co., and all the debts of the deceased, except the fees of Montgomery and Deloney, the attorneys for the succession, p. 42.

That Mrs. E. Hall is dead, defendant is the legal representative of her succession, and holds the same under administration.

That the sole cause of complaint of plaintiffs, as stated by their counsel to defendant, is that the succession of Mrs. Hall has failed to pay the fees of Montgomery and Deloney in pursuance of the assumption by her in the sale.

That these rules ought not to be taken out by plaintiffs, simply because Mrs. Hall died without carrying out her part of the agreement; and defendant as the legal representative of her estate has been unable to pay said fees of Montgomery and Deloney out of her estate."

That on December 27th, 1880, by an *ex parte* application to the Judge of the Probate Court, not notified to counsel for absent heirs, and not notified to the attorneys of Record for the heirs, (see affidavit of E. D. Farrar, p. 166), Hall alleged that there were debts due by the succession, and obtained an order for the sale of all the lands except the Mounds plantation, p. 40.

That on December 23d, 1880, Hall filed with his sworn answer, to which the affidavit was made December 15th, 1880, an exception, answer and provisional account, p 44.

That the falsity of this account is apparent on its face, for the reasen that Hall alleged in his answer of December 15th, to which he made oath, "In said purchase the said Mrs. Hall assumed the payment of all the debts of the succession, and in pursuance of said assumption paid the large mortgage debt of $10,000, to Graham, Black & Co., and all the debts of the deceased except fees of the attorneys of the succession, and a claim of about $400, which was abandoned, p. 42.

That every item of the account consists of debts which, by the sworn answer of Hall, were assumed and paid by his deceased wife, p. 45.

That the pretended credit, $410.75, paid Montgomery and Deloney, is contradicted by the voucher showing that their claim of $1,250, for legal services rendered in suits brought in the name of King, for the joint benefit of himself and Mrs. E. Hall, was reduced to $839.25, not by any payment made to them by Hall, but by an offset of claims against them. Voucher No. 19, p. 50.

That in the same answer of Hall it is alleged "As to the claim of Montgomery & Deloney, they hold for collection a number of claims and suits in the name of W. D. King, or succesion of King, but the counter letter on record shows that one-half thereof belong to Mrs. Hall, and she acquired the other half by said purchase from plaintiffs in February, 1878, p. 43.

The account is so evidently false and fictitious that argument is unnecessary.

There is not an item on it which was not assumed and undertaken to be paid by Mrs. Hall, and by the sworn answer of Hall paid by her.

The item $111,05, of taxes for 1876, is shown by reference to the voucher to be one-half of the State and parish taxes on the Mounds plantation for 1876, expressly assumed and undertaken to be paid by Hall, and the receipt is dated December 10th, 1877. Voucher No. 11, p. 49.

Every item on the account is false, except the debit of $384.07 to the curator, and that represents the proceeds of property inventoried at $1,052, and sold by Hall, or pretended to be sold, in pursuance of an *ex parte* order.

The accounts and vouchers were filed December 23d, 1880, and every voucher is dated for the years 1877, 1878 and 1879, p. 46, 51.

There is a minute of December 11th, 1880, purporting to be an order of J. Harvey Brigham, Judge 6th District, which reads, "This case was taken up for trial, and judgment for plaintiffs ordering the rule to be made absolute, and that the property of the succession of W. D. King be sold to pay the debts," p. 51.

There is nothing to indicate in what proceeding this order was rendered, nor is there in the record any evidence of a rule taken by the creditors, nor any other person, to sell the property, p. 204, intg. 12.

The property was sold on February 5th, 1881, by Hall, in pursuance of the *ex parte* order of December 27th, 1880, which was not notified to counsel for absent heirs, to the attorneys of record, nor to the heirs themselves, p. 51.

That on June 11th, 1881, Hall filed another provisional account, in which he charged himself $1,123.60 proceeds of sale, and credited himself $611.65 and other items, which like those in the previous account are manifestly fictitious, p. 54.

That it is manifest that the indebtedness of $1,250 to Montgomery & Deloney, for legal services rendered in suits brought in the name of King for the joint benefit of himself and Mrs. E. Hall, and reduced to $839 25 by an offset of claims against them, was not an indebtedness of the estate of King, since one-half of the indebtedness was due by Mrs. Hall and her succession as joint owner of the claims sued on.

Moreover, the ownership of all these claims had passed to Mrs. Hall by the act of sale of February 19th, 1878. It is pretended that the proceeds of the first sale were paid to Montgomery & Deloney to satisfy this debt. The testimony of F. F. Montgomery, p. 192, intg. 3,

is "The payment was made before the sale, and my recollection is that W. G. Wyly, who was the attorney for Ben. E. Hall, curator for King's succession, handed me the check of Ben. E. Hall on the Louisiana National Bank, and I gave my receipt therefor."

The testimony of Deloney, p. 180, intg. 3, is, "Payment was made before the sale and adjudication of the property of the succession of King, that is to say of the real estate.

The receipt is dated June 24th, 1881, at a date long subsequent to the sale. V. 25, p. 55.

That the joint note of King and Mrs. Hall for $10,000, secured by mortgage on the Mounds plantation, appears to have been executed late in the summer of 1877, for supplies furnished to the plantation, p. 63.

That no account has ever been rendered by the curator of King's half interest in the proceeds of that crop.

That Mrs. Hall as joint owner, and as vendee, had possession of the Mounds plantation until her death in 1879.

That Hall as testamentary executor, and instituted heir, by the will, applied for letters on February 11th, 1880, p, 107, 108.

That he was appointed March 4, 1880, and qualified, p. 111.

That the estate of Mrs. Hall was inventoried at $37,415.86, p. 114.

That March 30th, 1880, T. L. Airy & Co. instituted suit to foreclose the mortgage executed to them by Mrs. Hall, February 21st, 1878, p. 79.

That the writ of seizure and sale issued, and with the return is found on p. 86.

That the property was seized on April 22d, 1880, and advertised to be sold June 19th, 1880.

That at that sale Graham bid for the property a sum of money more than sufficient to pay all the debts of the succession of Mrs. Hall.

See testimony of Kennedy, Buckner, and Wyly. Intg. 19, p. 178; intg. 9, p. 234; intg. 15 p. 244.

That the Sheriff, instructed by plaintiff's attorney, with the consent of Hall, withdrew the property from sale, p. 88.

That on July 3d, 1880, the Sheriff was again instructed to postpone the sale, and again on July 22d, 1880.

That November 26th, 1880, Bucker, instituted suit to foreclose the mortgage and vendors lien given by Mrs. Hall to the complainants, p. 75.

That on December 17th, 1880, certain creditors took proceedings to compel Hall to give security, p. 114.

That judgment was rendered and bond given in the sum of $1,950, with Buckner as surety, p. 117.

That on January 28, 1881, Egelly made application to be appointed dative executor, p. 118.

That Hall sued out an injunction February 5th, 1881, p. 120.

And gave bond in the sum $2,500, with Buckner as security, p. 123.

That Buckner intervened in the suit, *as first mortgage creditor*, July 5, 1881, opposed the appointment of Egelly, and applied for administration, p. 124.

That an exception and answer was filed by Egelly October 14th, 1882, p. 125.

That a judgment was rendered in the District Court October 16th, 1882, dissolving the injunction, p. 128.

That a suspensive appeal was taken by Hall, and

bond filed in the sum of $500, with Buckner as surety, p. 128.

That the judgment was approved in the Supreme Court, p. 129.

That on February 3d, 1881, Montgomery & Deloney, as creditors of the estate of King, instituted suit against Hall, Airy & Co., and Buckner to enjoin the sale of the half of the Mounds plantation, sold by complainant to Mrs. Hall, and to have the property brought back into the succession and subjected to the payment of that debt, p. 104.

That Deloney recused himself, p. 107.

That May 10th, 1882, Montgomery & Deloney instituted another suit against Hall, Airy & Co., and Buckner, p. 67.

That these suits pended until April 28th, 1884, when they were disposed of by agreement between Wyly and Montgomery & Deloney, p. 74.

Of this agreement Montgomery testifies, "I do not recollect the day of the month or year any such agreement was made."

"Whatever agreement was made was a simple proposition made by W. G. Wyly, attorney for Ben. E. Hall, to pay our debt if we would allow the injunction suits to be dismissed, which proposition we acceded to." See testimony of Montgomery, answer to 5th intg. p. 193.

"There was no written agreement between us and very little conversation on the subject.

Intg. 6th. "I know of no agreement except the proposition made by W. G. Wyly, attorney for Hall, to pay our debt, if we would allow the injunction suits to be dismissed."

Intg. 7th. "I think the understanding with W. G. Wyly, attorney for Hall, was made prior to the sale of the property to Isidore Newman."

Deloney testifies: "I think the agreement was had before the sale and adjudication of the property to Isidore Newman, though the payment of our claim was made after the sale, and out of the funds derived therefrom."

Testimony of Deloney, p. 180. Answers to 4th, 5th, 6th, and 7th intg.

The suits were disposed of by a judgment in pursuance of this agreement May 6th, 1884, p. 75.

The writ of sale issued to Hall, curator of the succession of King, December 31st, 1880, p. 51.

The curator returned the writ February 7th, 1881.

The purchasers instituted a monition suits February 10th, 1881, p. 188.

An opposition was filed by the complainants, p.p. 92, 95.

A judgment was rendered in the lower Court October 22d, 1881, p. 95.

An appeal was prosecuted to the Circuit Court and a mandate rendered November 17th, 1881, setting aside the *sale, and restoring the property to the succession* upon the reimbursement to the purchasers of the price paid by them, p. 96.

On November 16th, 1883, Hall, in pursuance of the agreement between Wyly and Montgomery & Deloney, made a second *ex parte* application to sell the property of the succession of King, and obtained an order of sale, p. 57.

The writ issued to the Sheriff, and his return, February 6th, 1884, shows that the property was adjudicated to Isidore Newman, for $1,677.74, p. 58.

What purports to be a final account of Hall, curator, was filed April 21st, 1884, p. 60.

On p. 56 appears a recusation of Deloney, dated December 10th, 1881.

On p. 57 it appears that an appeal from a judgment on a rule to sell property was dismissed on motion of attorneys November 14th, 1881, p. 51, 57. This was the proceeding taken by Montgomery & Deloney.

The first receipt of Montgomery & Deloney, for $928.77, June 4th, 1881, is found in v. 25, p. 55.

The second receipt for $1,425, dated March 14th, 1884, is found on p. 62, v. 30.

According to the sworn answer of Hall, filed in the proceedings taken by the complainants to compel him to render an account of his administration, this indebtedness constituted the only debt of the succession of King, which had not been paid by his wife as vendee of the undivided half of the Mounds plantation.

To pay this debt, the lands, which the complainants had reserved, as they supposed free of debt, were twice sold by Hall in pursuance of *ex parte* orders obtained by him from the Probate Judge.

The complainants testify, positively, and their attorney, Judge Farrar, testifies positively, that they had no notice of the proceedings, nor of the necessity for them to pay the debts, until the sales were consummated.

They testify that they were ready to pay the debt, if necessary, to prevent the sale of the property, and that they did pay the sum of $1,200 to redeem the property from the first sale.

ARGUMENT.

The object of the bill is to recover from the principal and sureties on the bond the $1,200 so paid with inter-

est, and the value of the property wrongfully alienated, with interest from day of sale.

They charge,

1st. That there was no necessity for a sale of the property.

2d. That if there was such necessity they were prepared to advance the money to pay the debts in order to prevent the sacrifice of the property.

The obligation of a surety on the bond of an administrator, or curator, is settled in the Louisiana Jurisprudence by a long line of authorities.

These authorities were revised, and the doctrine reaffirmed in the case of Ford vs. Kittridge, 28 An. 113.

The Court said: "It has been contended that plaintiffs ought first to have provoked the filing of an account and tableu of distribution by the curator. This would have been very requisite if they had sought a recovery from the estate administered by him. But the sole object is to recover from the surety of the curarator, personally, and out of his private property, the damages which they have sustained by the breach of the condition of the bond.

Parmalee vs. Brashear, 16 La., 72.

The bond is conditioned for a true and faithful administration of the estate of his principal.

Elliott vs. White, 5 La., 322.

It was the duty of the curator and his representative to account and deliver the amount in his hands.

For the performance of this duty he gave bond.

This he has not done, and as a breach of the condition, the surety is liable to a suit although neither the curator nor his surety has been sued for a settlement.

Denys vs. Armitage, 5 M. 330.

Rison vs. Young, 7 N. S. 294.

Zander vs. Pile, 8 La. 211.
Ingraham vs. Stokes, 10 La. 26.
Parmalee vs. Brashear, 11 La. 329.
Bonney vs. Brashear, 19 La. 383.

In the case of Serret vs. Labauve, 15 An. 186, the Court said: "The debt having been barred by prescription, the loss is justly chargeable to the administrator, because the evidence shows that Hubbard possessed sufficient property after the death of his wife to satisfy his indebtedness to her succession."

The obligation of the defendants, as sureties on the bond of Hall, was that he would faithfully administer the trust confided to him. If there has been a breach of the condition of the bond they are liable.

That there have been repeated breaches cannot be denied.

The first complaint is that Hall failed to collect from his wife during her life, and from the estate after her death, the indebtedness due by the estate of King to Montgomery & Delony, which had been assumed and undertaken to be paid by Mrs. Hall as a part of the purchase price of the Mounds plantation.

This obligation contracted by Mrs. Hall was not a debt to the complainants, but a stipulation *pour autrui*, an obligation to pay to Hall as curator of the estate of King a sufficient sum to discharge all the debts of the estate.

It was Hall's duty to collect from his wife during her life, or from her estate after her death, the amount of the indebtedness due by the estate of King to Montgomery & Deloney, and to pay the debt to them.

It is shown that Mrs. Hall was in possession of the property from February, 1878, till the day of her death.

That after her death her estate was inventoried and appraised at the sum of $37,415.86, a sum largely more than sufficient to pay all the debts of her estate.

That the property was offered for sale in June, 1880, at the suit of T. L. Airy & Co., and that Graham, a perfectly responsible bidder, bid the sum of $30,000 or $31,000, and that Hall, without any means whatever to pay the price of his bid, for some purpose of his own, bid a larger sum, and induced the plaintiff's attorney to withdraw the property from sale, in order to defeat the adjudication to Graham.

That Graham's bid would have furnished a sum sufficient to pay all the debts of the estate, and to leave a large surplus to Hall as testamentary heir. That although nominally under seizure, and in the Sheriff's possession, Hall had the actual possession of the property until the last sale and adjudication to Buckner in 1884, and received the fruits and rents and revenues.

That these fruits and rents, and revenues, were worth at the lowest estimate $3,000 per year.

There can be no doubt then of the ability of Hall as curator of the estate of King, to collect from his wife during his life, and from her estate after her death, the amount of the indebtedness of the estate of King to Montgomery & Delony.

The next complaint is that Hall, instead of acting in the discharge of his duty, and aiding Montgomery & Delony to subject the undivided half of the Mounds plantation to the payment of their debt, which had been assumed and undertaken to be paid by his wife as a part of the purchase price, colluded with John A. Buckner and T. L. Airy & Co., creditors of his wife, to defeat the enforcement of her obligations.

As was said by the Supreme Court of Louisiana in the case of

33 An. 602.

"The decisions that the heir cannot take the property of the succession out of the possession of the administrator, and mortgage, or alienate it to the prejudice of the creditors of the succession, are as numerous as mile-stones on the highway.

Labitut vs. Prewit, 1 Woods 144.

The complainants could have sold the property to Mrs. Hall only with the consent of Hall as curator of the estate of King.

Intg. 8, p. 210.

This consent he gave by authorizing his wife to make the purchase.

It was still his duty to collect from her the amount of the debts of the estate of King, and to pay the creditors of that estate.

In his answer, and sworn statement, in the proceedings against him to compel him to render an account, he stated that all the debts had been paid except the debt to Montgomery and Deloney.

If it was necessary to sell any property to pay that debt, it was manifestly his duty to subject the undivided half of the Mounds plantation.

It was in his power to do this, but, instead, as is shown by the testimony of Montgomery & Deloney, he paid them a part of the debt, and then in the absence of complainants, and their counsel, and without notice to them, and without their knowledge, he obtained an *ex parte* order and sold the lands, which complainants had reserved for themselves, and which they believed free of debt.

That complainants redeemed the land by the payment of $1,200, but by the effect of the mandate of the Circuit Court the title to the land did not vest in them, but reverted to the succession, and the lands were returned to the possession of Hall as curator.

That again in 1883, instead of performing his duty as curator, he again, acting in the interest of Airy & Co. and Buckner, proposed to Montgomery & Deloney, by his attorney, Wyly, to pay that debt by the sale of the lands reserved by the heirs if they would allow the injunction suits to be dismissed.

That in pursuance of this agreement he again obtained an *ex parte* order, without notice to complainants or their counsel, and without their knowledge, and caused the very lands which they had redeemed, and which they had every right to suppose free of debt, to be sold a second time.

The next complaint is that without notifying the complainants of his inability to collect from the estate of his wife, and the need of funds to pay the debt to Montgomery & Deloney, he made *ex parte* applications for orders of sale, and sold the lands without their knowledge, when complainants were willing and ready to pay any sums required to prevent the sacrifice of the lands, and had advanced the sum of $1,200 to redeem them after the first sale.

In the case of Succ. of Bowles 4 Rob. 35, the Court said: "Notice must be given to the forced heirs of any application to sell the property of a succession in which they are interested."

"The omission to sight the attorney of absent heirs was an informality anterior to the judgment which could not be inquired into collaterally—although it

might subject the administratrix to damages at the suit of the absent heirs."

Succ. Wadsworth, 2 An. 966.

Gibson vs. Foster, 2 An. 503.

The next complaint in that the accounts pretended to be rendered by the administrator are false and fictitious.

It would be hard to concieve of a worse case of maladministration.

The defences are purely technical and without equity.

The plea to the jurisdiction is fully answered by the opinion of the U. S. Supreme Court in the case of

Payne vs. Hook, 7 Wallace 425.

See Arnold vs. Spattes, 22, N. W. Rept. 680 Iowa Reports filed March 20th, 1885.

The case of Hebert vs. Hebert, 22 La., An. 308, offers no analogy to this case.

In this case the heirs never took the possession of the property from the administrator, never interfered with him in the administration, and never applied to the Court to be recognized as heirs and put in possession of the property.

The testimony of Mrs. Elizabeth Norman, one of the complainants, shows that the purchase was negotiated by Hall himself.

"Mr. Ben. E. Hall, the administrator, came to us in Hazlehurst, Mississippi, and we sold to him, but made the deed, or rather executed a power of attorney to a man in New Orleans, La., to make a deed to Mrs. E. Hall." Intg. 8 p. 210.

The text is not correctly printed, and should read, "Mrs. Hall gave her notes for the amount of the purchase that was to be paid in money to the heirs."

John A. Buckner paid the notes on the 9th day of May, 1880, paying the interest on the note that fell due January 1st, 1881. These notes were secured by her on the land sold Mrs. Hall."

The witness has evidently confounded payment with sale, as the notes were not paid by, but sold to John A. Buckner.

There is another error in the answer to the 11th intg. on the same page, and the word should be recites instead of receipts.

The next appearance of the heirs is in the proceeding instituted May 15th, 1880, to compel Hall to render an account of his administration, which culminated December 27th, 1880, in the filing of a false and fictitious account, and the obtaining by Hall of an *ex parte* order for the sale of the property.

At this time Hall had acknowledged as a debt of the estate a claim of Montgomery & Deloney for $839.25, which was due by his wife, as joint owner of the claims, and as vendee of complainants, had failed to pay that debt and the debt due to them as attorneys for the succession, had rendered the estate of his wife insolvent by defeating the adjudication of the property to Graham, and was in contempt for his failure and refusal to render an account.

Montgomery & Deloney were suing on the claim for $1,250, and were endeavoring to compel a sale of the property of the estate to pay the acknowledged claim for $839.25.

The next appearance is in the oppositions to the monitions by the purchasers, and the Court of Appeals, in sustaining the opposition, and setting aside the sale, restored the property to the succession, and left it to be administered in due course.

In pursuance of the agreement between Hall and Montgomery & Deloney, to pay the debt of $1,250, if they would dismiss the injunction suits and allow the Mounds plantation to be sold, Hall obtained a second *ex parte* order for the sale of the property of the succession on November 16th, 1883, and caused it to be sold by the Sheriff and adjudicated to Newman.

These *ex parte* orders were obtained, and sale made, without notice to complainants. Intgs. 21 to 26, p. 211.

It does not lie in the mouth of Hall, nor of the defendants, his sureties, to say that the administration was terminated by the act of complainants, and Hall made their agent, and his sureties discharged, when he has twice caused the property to be sold as the property of the succession, and the Court of Appeals has adjudged it to be the property of the succession, and restored it to the possession of the administrator.

As was said by the Supreme Court of Louisiana in 33 An. 602, the decisions that the heir cannot take the property of the succession out of the possession of the administrator, and mortgage or alienate it to the prejudice of the creditors of the succession, are as numerous as mile-stones on the highway.

It was the plain duty of Hall, after the sale to his wife, to administer, by collecting the debts due to the estate, and paying the debts due by it, and to render an an account of his gestion when called on.

He did proceed to administer, but in a way not contemplated by law; by failing to collect the debts due to the estate; by acknowledging a debt of which at least one half was due by his wife; by refusing to render an account; by becoming involved in litigation, defeating the adjudication to Graham, and thus rendering the es-

tate of his wife insolvent; by rendering false and fictitious accounts; by paying the debt of $839.25 to Montgomery & Deloney, and then selling the land reserved by complainants without notice to them to reimburse himself, and taking a receipt with a false date; by colluding with Buckner, one of his sureties, to defeat the enforcement of the conditions of the sale of the Mounds plantation; by colluding with Montgomery & Deloney, other of his sureties to abandon the injunction suits and allow the sale of the Mounds plantation; by obtaining a second *ex parte* order, without notice to complainants, and selling a second time lands which they had redeemed from the first sale; and finally by leaving the State utterly insolvent.

The condition of the bond was that he should well and truly administer the property and effects of the deceased, and a true and correct account render in the time and manner pointed out by law, and it comes with a very bad grace from the defendants, his sureties, who have profited by his abuse of his trust, to plead a discharge by the acts of complainants.

He did render what purported to be a final account of his administration, p. 60.

On the petition filed therewith appears the following order:

"The foregoing petition and final account considered, it is ordered that notice of the filing of same be made according to law, and that if no opposition be made thereto within legal delays the same will be homologated as prayed for.

Done and signed at chambers on this the 21st day of April, 1884

E. J. DELONY,
Judge 8th Judicial District.

The Judge who signed this order was one of the sureties on the bond, and had previously recused himself, p. 56.

No proof was ever adduced, and the account was never homologated.

In the case of succession of Planchet, 29, An. 521, the Supreme Court of Louisiana said:

"When the representative of a succession files an account he is plaintiff.

The burden is on him to prove and establish the correctness of the account, and it cannot be homologated without such proof.

If no opposition is made, the proof is introduced, and the whole proceeding is *ex parte*, just as in ordinary cases when judgment by default has been taken, and is to be confirmed."

The order was a nullity, if the Judge had been capable of rendering it, and the account has never been homologated.

It was not necessary for the complainants to oppose the homologation of the accounts in the Probate Court.

Ford vs. Kittredge, 28 An. 113.

Nor was it necessary to sue Hall as principal, and have execution and a return *nulla bona* before suing on the bond.

At the time of the filing of this bill in the State Court, February 2d, 1885, Hall had departed permanently from the State, utterly insolvent, and the obligation of his sureties was to account in his stead.

The answer of the defendant, Buckner, is a denial of the charge of collusion between himself and Hall, and a denial of maladministration by Hall.

Montgomery has demurred to the bill on purely technical grounds, which have been argued, denies a

breach of the condition of the bond, and specially denies his liability as surety.

Deloney failed to appear and answer, and the bill as to him was taken for confessed.

All the questions of law and fact presented by the pleadings and proofs have been fully argued.

The Judges of the Circuit Court dismissed the bill without assigning any reasons, and it is difficult, if not impossible, to specify errors, except such as are set forth in the petition for rehearing, p. 170.

The question which most troubled the pleader was the question of jurisdiction, which was not raised by the pleadings.

If the complainants had a plain, complete and adequate remedy at law, the suit should have been filed on the law side of the Court, and brought before this Court on writ of error.

As your Honors are accustomed to take notice of such matters, *ex propio motu*, it is thought necessary to argue the question as it presented by a formal plea.

In addition to the elements of trust, account, fraud, and conspiracy which appertain to the general equity jurisdiction, there is a particular equity in favor of complainants against all the defendants.

Their obligation, as sureties on the bond of Hall, made them trustees, or quasi trustees, for the complainants.

Montgomery & Deloney were creditors of the estate of King by virtue of their relation of attorneys for the succession.

And Buckner was a party interested, by virtue of of the obligation of Mrs. Hall as purchaser of the Mounds plantation to pay the debt to Montgomery & Deloney.

That is, a debt due to Montgomery & Deloney by the succession of King was a charge upon the undivided half of the Mounds plantation, which was superior to

the lien of the mortgage held by him, and certainly superior to the lien of the mortgage held by Airy & Co.

Equity and good conscience required Montgomery & Deloney to enforce the payment of their debt against the property sold to Mrs. Hall, rather than against the property reserved by the heirs. And equity and good conscience required Buckner to submit to the payment of the debt from that property rather than compel a sale of the lands reserved.

Except for their liability as sureties, it may have been indifferent to Montgomery & Deloney from what property they were paid, but being sureties for the administrator it was their duty to subject the undivided half of the Mounds plantation.

Buckner, as holder of the notes and mortgage, had a direct interest in having the debt paid by the sale of the lands reserved.

Montgomery & Deloney, as appears from their testimony, did take proceedings to compel the payment of their debt by a suit against the administrator, and by rule to sell property. But they procured, or permitted the administrator to acknowledge in their favor, as a debt of the estate of King, a debt which was due jointly by King and by Mrs. Hall, and of which only one-half could have been due by the estate of King.

They accepted payment of this debt from Hall, knowing that he would sell the land reserved to reimburse himself, gave him a receipt dated long after the payment, and abandoned their rule to sell.

They afterwards instituted suits against Hall and Buckner, and Airy & Co. to have the tax sale set aside and the undivided half of the Mounds plantation subjected to the balance of their debt, and agreed with

Wyly, attorney for all parties, to dismiss the suits and accept payment from the second sale of the reserved lands. It is respectfully submitted that such conduct is scarcely compatible with the duties of sureties on the bond of an administrator. Buckner vehemently denies the charge of collusion with Hall, but it is impossible to reconcile his conduct with any other theory. Wyly was the attorney for Airy & Co., and for Buckner, in the foreclosure suits, and was at the same time attorney for Hall, defendant. He represented them all in the suits by Montgomery & Deloney, and if this was not collusion it is difficult to define collusion.

Admit, as Buckner testifies that he was not opposed to the sale of the Mounds plantation to Graham, it was Wyly who directed the property to be withdrawn from sale.

Buckner opposed the suit of Montgomery & Deloney to have the half of the Mounds plantation subjected to the payment of their debt, and Wyly was his attorney when he made the proposition to Montgomery & Deloney to pay their debt from the proceeds of the sale of the lands reserved if they would dismiss the suits, and it was as his attorney, that Wyly signed the agreement to compromise. Wyly must have known, and Buckner must have known, and Montgomery & Deloney must have known that the intention was to sell a second time the lands which had been once already sold and redeemed by the heirs.

The complainants were far away, in the county of Copiah and State of Mississippi, and their attorney, Judge Farrar, was resident in the city of Vicksburg and State of Mississippi, and equity and good conscience required that they should at least have notice, and that the administrator, whose duty it was to protect their interest, should not collude with his sureties to defraud them.

Buckner was the surety on all the bonds executed by Hall in the litigation over the estate of his deceased wife, became the purchaser of Mounds plantation at tax sale on May 21st, 1881, and by himself, or jointly with Hall, received and appropriated all the revenues of the property from the death of Mrs. Hall in 1879, to the purchase by him in 1884, and in all the litigation Buckner and Hall were represented by the the same attorney, Wyly.

There was then both a general and particular equity in favor of these complainants against defendants, as sureties on the bond of the administrator, and a Court of Chancery is the proper tribunal to enforce that equity, and compel the defendants to account and distribute.

Payne vs. Hook 7, Wallace 425.

Arnold vs. Spattes 22, North West Reports 680, Iowa Reports, filed March 20th, 1885.

The bill is substantially, although not technically, a bill for an accounting and distribution.

It is difficult to estimate the value of the lands so wrongfully alienated, because at that time, owing to the condition of the levees on the Mississippi river, they had no market value, and were sold at a sacrifice.

The testimony of Mrs. Elizabeth Norman, one of the complainants, is:

"We valued the reserved lands at $12,000, and believe they were amply worth that amount. The lands are very productive when cultivated, and at one time were nearly all in cultivation, but owing to the crevasse at Ashland and the precarious condition of the levees in Arkansas and Louisiana, the cultivation of most of the lands had been abandoned.

The crevasse at Ashland had recently been closed and the United States government had undertaken the construction and maintenance of the levees, had closed all the crevasses from Ashland down, and was apparently about to protect the entire basin from overflow. Under

those circumstances it was manifest that the lands would have enhanced rapidly in value."

The heirs had reserved the lands for these reasons, and held them not at the price they would bring at a forced sale, but at what they considered their intrinsic value and would not have parted with them for less than the price stated." Intg's 27, 28, 29, p. 212.

The testimoney of Miss Eunice King is to the same effect, p 214.

The testimony of Egelly is substantially to the same effect, p. 218.

The description of the lands is found in the exhibit on p. 66, and it is respectfully submitted that the estimate of $10,000 is not in excess of their intrinsic value.

It is notorious, and a matter of which this Court has more than once had judicial cognizance, that an inventory and appraisement, and forced sale, of lands in the State of Louisiana, and especially in that part of the State, is no test of their value.

It is respectfully submitted that there has been a plain, palpable, and flagrant breach of the condition of the bond, by the acts of the administrator, and by the acts of the defendants, his sureties, and that the decree of the Circuit Court should be reversed, and a decree rendered for the complainants for the sum of twelve hundred dollars with legal interest from January 1st, 1881, and for the further sum of ten thousand dollars with legal interest from January 19th, 1884, at the rate of five per cent. per annum.

The prayer of the bill is in the alternative, for a dissolution of the sale of the undivided half of the Mounds plantation, because of the failure by the purchaser to comply with the terms of the sale.

It was considered that the remedy on the bond of the administrator might fail, because of some of the technical pleas interposed, and that if a decree should

be rendered for the complainants at the end of a long and expensive litigation it was possible, and even probable that the defendants might be found insolvent, or dead, or departed from the State.

Alternative pleading is much favored in modern practice, because it tends to put an end to litigation, and to determine, at once and forever, all controversy between the parties litigant.

Such pleading has not been favored in the Federal Courts of equity, and the tendency has been to confine parties to the remedies afforded by the English Chancery system.

The bill was liable to demurrer for multifariousness, and even for misjoinder of parties, but, as no such demurrer was filed, the presumption is that both complainants and defendants desire to have all matters of controversy disposed of in this suit.

The resolutory condition is implied in all commutive contracts in the State of Louisiana, Civil Code 2046.

If the buyer does not pay the price, the seller may sue for the dissolution of the sale.

Civil Code 2561.

One of the conditions of the sale by the complainants to Mrs. Hall was that she assumed and bound herself to pay and discharge all the outstanding indebtedness of the estate of King.

It is not denied that she and her representative failed to perform this condition, and to pay at least the debt to Montgomery & Deloney, and that because of such failure the lands reserved by complainants were sold at a sacrifice.

The answer of the defendant, Buckner, to that part of the bill, is that all the property of the succession of King, and all the property of the succession of Mrs. Hall, was sold to pay the debts of King, that he was a purchaser in good faith, and that complainants have not

tendered him the price paid, which is a condition precedent to the suit for dissolution, Buckner could not possibly have been an innocent purchaser, because the act of sale, with the terms and conditions, was of public record, he derived his rights from the same act, and and no one knew better than he that the conditions had not been performed, or contributed more than he to prevent performance.

The property of Mrs. Hall was not sold to pay the debts of King, because, although a joint note was executed by King and Mrs. Hall for $10,000 in the Summer of 1877, no account has ever been rendered of King's interest in the cotton crop of that year, which was gathered and sold before the purchase by Mrs. Hall.

The property was sold to pay the mortgage debt contracted by Mrs. Hall to Airy & Co., after her purchase.

In case of dissolution of the sale for non-payment of the price, the vendor returns the portion paid with interest, and the vendee accounts for the rents and revenues, after deducting for improvements.

The obligation of the complainants would be to return with interest so much of the price as the purchaser paid, which would include the amount of the notes taken up by Buckner, and so much of the debts of the estate of King as could be shown to have been paid by Mrs. Hall, and the obligation of Buckner would be to restore the undivided half of the plantation, to account for the undivided half of the rents and revenues after deducting for improvements, and to account for all the personal property included in the sale.

This would require an accounting, and reference to a master, and would necessarily follow a decree dissolv-

ing the sale, but is no reason why such decree should not be rendered.

The prayer of the bill is for a reference and an accounting.

The plea is that complainants should have estimated the amount, and made an actual tender of that sum, as a condition precedent to the institution of the suit.

But it by no means follows, that upon such an accounting, there would be anything due by complainants. The decisions by the Supreme Court of Louisiana upon this question of putting the purchaser in default and making a tender of the portion of the price paid, as conditions precedent, have been very conflicting, but the later decisions are much more reasonable, and consonant with the principles of equity and common sense.

The action itself is a putting in default.

23 La. An. 355.

28 La. An. 582, 739.

32 La. An, 462, 924, 1290.

In the case of U. S. vs. Lee, 106 U. S. 196, your Honors said:

"It is a general rule that when the tender or performance of an act is necessary to the establishment of any right against another party, this tender or offer to perform is waived or becomes unnecessary when it is reasonably certain that the offer will be refused."

There is no demurrer to the bill for want of parties, but it was objected in argument that the representative of Mrs. Hall was a necessary party to the bill.

As Hall is admitted to have departed permanently from the State, and the succession of his deceased wife is admitted to be utterly insolvent and without a representative in the State, it would be requiring the complainants to do a vain thing.

Their prayer is for a decree against the defendants, and, if such decree cannot be had, or cannot be executed, for a dissolution of the sale and restoration of the property.

All of which is respectfully submitted.

WADE R. YOUNG,

Solicitor.

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Supreme Court of the United States.

NORMAN et al.

vs.

JOHN A. BUCKNER et al.

No. 275.

Appeal from Circuit Court, Western District of Louisiana.

WASHINGTON:
GIBSON BROS., PRINTERS AND BOOKBINDERS.
1890.

Supreme Court of the United States.

MRS. E. NORMAN ET AL.
v.
JNO. A. BUCKNER ET AL.
No. 275.

Brief in behalf of F. F. Montgomery.

STATEMENT OF PLEADINGS.

Complainants Eunice H. King and Mrs. Elizabeth Norman, heirs-at-law of W. D. King, late of Carroll Parish, La., claim that Ben. E. Hall, curator, of King's estate, and F. F. Montgomery, E. J. Delony, and Jno. A. Buckner, sureties on his official bond, are indebted to them in the sum of eleven thousand two hundred dollars, with legal interest on the sum of twelve hundred dollars from January 1, 1881, and on the balance from January 19, 1884, and if they are not entitled to recover this money judgment, they pray for the rescission of the sale of a certain plantation known as "Mounds," upon their returning the purchase price. The grounds upon which these demands are predicated may be stated as follows:

Complainants are the heirs-at-law of one W. D. King, who died in the Parish of Carroll in Sept., 1877, leaving a

large estate, consisting of real and personal property, as shown by the inventory.

He owned the Mounds plantation with stock, appurtenances, &c., and a store upon it, in partnership with Mrs. Leonora E. Hall, wife of B. E. Hall; that is, they were joint and equal owners.

B. E. Hall was appointed curator of his estate, and gave as sureties on his official bond, the parties above named and his wife, L. E. Hall.

This appointment was made and bond given on Oct. 16, 1878 (Record, p. 33). On the 19th of February, 1878, complainants, by an act executed before Andrew Hero, Jr., a notary public, sold and conveyed to Mrs. L. E. Hall "all and singular an undivided half, part, share, an ½ interest, and all the estates, right, title, interest, share, property, claim, and demand of every kind and nature whatsoever, of the aforesaid complainants, or either of them, in and to the following-described real, personal, and mixed property and estate, viz:" The Mounds plantation, with all its appurtenances, the stock of goods in store, notes, accounts, judgments, &c., as shown by the inventory of the succession referred to in the act for certainty of description. "This sale is made and accepted pursuant to the terms and conditions of the annexed agreement entered into between the aforesaid vendors and purchaser under date of February 11, 1878, for and in consideration of the price and sum of five thousand dollars with interest as hereinafter expressed," and in settlement and liquidation of which two notes are executed, one for two and one for three thousand dollars, stipulating 8 per cent. per annum interest, and secured in principal and interest by a mortgage on the property, "and said Mrs. Leonora E. Hall moreover assumes and binds herself to pay and discharge all the outstanding indebtedness of the succession or es-

tate of Wm. D. King, as also all the taxes due on said property " (Rec., p. 63, *et seq*).

The complainants reserving the wild and overflowed lands, not attached to Mounds plantation, and which were the sole property of W. D. King, a description of which is found on page 66 of the record, as Exhibit I.

Mrs. L. E. Hall died on the 2d of Sept., 1879 (Rec., p. 109), leaving an olographic will by which she bequeathed the Mounds plantation, with all its appurtenances, to her surviving husband, and constituted him executor without bond (Rec., 108). The will was duly probated, and B. E. Hall confirmed as executor on the 3d of March, 1880 (Rec., 111). The inventory and appraisement of her estate showed property valued at $37,415.86 (Rec., p. 113).

It is charged that Ben. E. Hall, being at the same time administrator of W. D. King, and executor of Mrs. L. E. Hall, prevented the sale of the Mounds plantation under foreclosure proceedings instituted by T. L. Airy & Co., mortgage creditors, for a sum sufficient to pay all her debts, including her assumpsit of W. D. King's debts, by bidding over a responsible person who had bid $30,000 therefor, and thereafter the property was adjudicated under the same mortgage to Jno. A. Buckner, for the sum of $22,000, the said Hall having been unable to comply with his bid.

That the succession of Mrs. Hall, having been thus rendered insolvent, sued B. E. Hall, obtained an *ex parte* order of sale, directing him, as administrator of W. D. King's estate, to sell the lands reserved by complainants in their sale to Mrs. Hall, and that he unlawfully and unnecessarily sold them to pay debts which Mrs. Hall had contracted to pay.

That the first sale thereof was set aside at the suit of complainants upon their refunding to the purchasers the

price they had paid, to wit: $1,200.00, and said Hall proceeded thereafter to resell the same lands under another *ex parte* order, and they were bought by an Isidore Newman, for the price of $1,677.74. "Now, your complainants charge and aver that all these actings, doings, and pretences on part of the said Ben. E. Hall were in pursuance of a scheme by the said Jno. A. Buckner and the said Hall to acquire the ownership of the said Mounds plantation, at a less price, and to defeat the enforcement by complainants of the obligation of L. E. Hall to pay all the debts of the estate of King, assumed and promised to be paid as a part of the purchase price of the undivided half of the Mounds plantation."

"That the lands reserved by complainants, although without a market value at that time, owing to the unsafe condition of the levees on the Mississippi river and consequent liability to overflow, were intrinsically very valuable, and would have come into demand as soon as the works undertaken by the Mississippi River Commission afforded adequate protection from overflow, and were well worth the sum of ten thousand dollars.

From all of which the deduction is drawn, that Hall and the sureties on his official bond as administrator of the estate of W. D. King, should pay complainants the amount which they refunded to the purchasers of these wild lands at the first sale, and the additional sum of ten thousand dollars, the alleged value of the same land subsequently sold for the debts assumed by Mrs. Hall—failing in this, that the original sale of the Mounds plantation to Mrs. Hall be rescinded and the property restored to them.

F. F. Montgomery, one of the securities on Hall's bond, demurred to the bill on the ground that no suit could be instituted against him on the bond until Hall's liability

had been liquidated by judgment and that a full account of his administration had been furnished the probate court of Carroll Parish, where the same is now pending, and this court is without jurisdiction or authority to decide the issues herein presented (Rec., 151–2).

This being overruled, defendant answered (Rec., p. 163 *et seq.*) and averred that all the alleged acts and doings of B. E. Hall in relation to the Mounds plantation and property thereon, after the sale by complainants of their undivided half interest, or rather of the interest of the decedent in it, was not in his capacity as administrator of King, but as executor of his wife.

That, as administrator of King, he was charged with no responsibility in or about the property of the said Hall. That the agreement by Mrs. Hall to pay the debts of King's estate was a personal contract between her and complainant to which Hall, as administrator of King, was not and could not be a party; and he could not bind or involve his sureties by any act not authorized or required of him by the laws regulating and defining his duties as administrator; and he specially pleads "that, under the laws of Louisiana, he cannot be sued as surety on said bond of Ben. E. Hall, administrator, until the necessary steps have been taken to enforce payment against the principal, and he avers that no such steps have been taken, nor have complainants alleged or shown any legal excuse for their failure to do so; on the contrary, it appears from the record that said Hall has long since presented accounts of his administration, upon which said complainants could by opposition have obtained contradictorily with him a settlement of such rights as they may have."

It is averred that the lands were sold under decree of court to pay debts of the succession, and that this respondent has no responsibility in the premises.

The court have rejected complainants' demand, and they have appealed.

Complainants' propositions, as they present themselves to our minds, may be stated as follows:

A.—It was the official duty of B. E. Hall, as administrator of W. D. King, to enforce a personal obligation entered into by Mrs. L. E. Hall in favor of the heirs of W. D. King, and by which she agreed to pay for their benefit the debts of his estate.

B.—The sale of the property which they sought by that agreement to pursue in satisfaction of the debts which Mrs. Hall agreed to pay was, therefore, chargeable to the fault of B. E. Hall, administrator, for the consequences of which his sureties are liable to them.

C.—It was the duty of B. E. Hall not to have bid at the sale of the Mounds plantation, under foreclosure of the mortgage of T. L. Airy & Co., and its subsequent sale for a less sum caused damage to the creditors of Mrs. Hall's estate, for which his sureties, as King's administrators, are liable.

We demur to every proposition as unsound in law and insufficient to maintain his conclusions.

A.

Under the laws of Louisiana the heirs of an estate under administration may take it out of the hands of an executor or administrator whenever they choose to do so, on paying the executor a sum sufficient to defray costs and movable legacies, and from an administrator on reimbursing him costs incurred, and giving security for the debts, *if creditors require it.* (See 4 La., 126–223, 5 A., 304; 13 La., 1; 2 Rob., 382; 3 Rob., 449; 3 A., 705; 25 A., 220–56; 21 A., 278; 29 A., 347; 30 A., 128–93.)

Therefore the heirs of W. D. King had the perfect right to sell and dispose of all or a portion of his estate, on such terms as they saw fit, and at any time they elected to accept the succession simply—*i. e.*, by making themselves responsible for its debts. Whatever complaints creditors might have made to it, it certainly did not lie in complainants' mouths to say that the administrator violated his official duty when he delivered property of the estate to the person to whom they had sold it. As well might they complain if he had delivered it to them and they had sold and delivered it to a third person.

From the moment complainants signed the deed of this property to Mrs. Hall it became completely eliminated from the succession—no longer formed part of it—and Hall's responsibility as administrator was *pro tanto* reduced and limited thereafter to the property undisposed of.

If Mrs. Hall complied with her obligations to the heirs by paying the debts of the estate, the remaining property would have belonged to complainants; but until these debts were paid, or the heirs gave surety for their payment, the property, not having been delivered to the heirs, remained subject in the administrator's hands to the payment of such debts as were not paid by Mrs. Hall or the heirs of King. The obligation of Mrs. Hall, therefore, to pay these debts was purely personal to the heirs. It was not one which Hall, as administrator, would have had the authority to make or to enforce. It formed no part of the duties imposed upon him by law, and hence any connection he may have had with it was at the request and by authority of the complainants, whose agent *pro hoc vice* he thereby became.

The case of Hebert *v.* Levert (22 La. Ann., 308), so flippantly discarded by counsel for appellant as offering no analogy to this case, is identically in point, and conclusive against him.

C. O. Hebert was administrator of his mother's estate. Under the direction of a family meeting held in the interest of minor heirs, and by consent of the major heirs, an order of sale was issued, directing the sale of the plantation on terms of credit to effect a partition, purchasers to give security to the satisfaction of the administrator. The property was sold, and the administrator approved securities totally insufficient, and those heirs who did not purchase property received nothing.

They sued Levert, surety on the bond, who plead that no law required or authorized an administrator to approve notes given for the purchase of property sold at partition sale, and he was not responsible for a malfeasance not performed in the discharge or failure to discharge a duty imposed by law. The Supreme Court of Louisiana sustained the defence, holding that the administrator acted in this matter as agent for the heirs and not as administrator of the succession, and that the heirs and administrator could by no agreement between themselves increase the liability of his sureties. The obligation of Mrs. Hall was not to or in favor of the estate administered by B. E. Hall. It was not in existence when he became administrator and made his bond, and the heirs had no right by their contract with a third person to make the liability of his sureties more onerous, by taking away from the succession a valuable plantation and leaving as an asset in place of it the mere personal assumpsit of its purchaser.

B.

While the contract made by complainants may have been as they thought, highly advantageous to them, as not only providing for all debts of the succession, and giving them five thousand dollars in addition to the tracts of land they

desired to retain, that was a contract to which Hall, as administrator, could not be a party, and by which he could not bind his sureties to the obligors of the contract.

If the heirs saw fit to take property out of the hands of the administrator and he consented to surrender it, certainly those heirs could not be heard to complain of their want of authority to demand it, or of his breach of duty in delivering it, nor could they take the property on conditions which imposed any obligations upon the administrator. The law authorizes him to surrender them the property; it does not authorize him to make any contracts by which he is bound either expressly or impliedly to look to any one else for money to pay debts which were secured by the property—as no such contract could be expressly made *a fortiori*, it could not result impliedly from his assent to a contract between others.

Therefore the action of B. E. Hall in delivering to the heirs of King the plantation and appurtenances which he did by assenting to its sale, was lawful, unless objected to by creditors, who only could complain of it; but he had no right to release, and did not pretend to release the rights of creditors on the lands of the succession remaining undisposed of, and which in contemplation of law were still in his custody as administrator.

The sale of this property was then lawful, if there were unpaid debts of the estate, and the extent of complainants demand would be the amount realized for it in excess of the debts to be paid.

As we have already shown, B. E. Hall, administrator, had no right to make a contract with the heirs of King, by which the property of the estate should be free from its debt, because of the assumption of them by Mrs. Hall, which is in effect complainants' contention. Therefore, the liability of the sureties depends on the existence of these debts.

If there was any debt, and the heirs failed or refused to furnish money to pay it, the sale was not only justifiable, but commanded by law. (C. C., 1165.)

There is no contention about the fact that Montgomery & Delony's fees were then due, and therefore admitting *arguendo*, which we do not, that all other claims had been paid, this one remaining unpaid justified the sale of the property.

Art. 1166, C. C., requires that the petition of the curator must be notified to the counsel of absent heirs. Notwithstanding the apparently mandatory character of this Article, it has long since been held that it is merely directory and that the sales made without notice are valid, leaving to heirs their actions in damages against the administrator, if he has unnecessarily provoked a sale of property. (2 A., 966; 14 A., 706; 18 A., 485; 20 A., 355.)

We do not consider it necessary to go into the labyrinth of figures furnished by Hall's account and vouchers to determine whether the whole price of these lands was consumed in debts and charges, because confessedly the amount involved is below the jurisdiction of this Honorable Court, nor to discuss the question of whether the amount of debts due justified the sale, because that would resolve itself into an action of damages of which this Court has no jurisdiction in equity.

We therefore submit on this point—

1st. That Hall had no right to, and did not release the claims of creditors to be paid by the sale of this land, and did not and could not abdicate his functions as administrator, except by resigning, which it is not pretended he did.

2d. That the sale was necessary to pay debts, and the court cannot state an account of distribution of the proceeds, because they amount to less than $5,000.

3d. That if complainants repudiate the proceeds of sale and demand damages resulting from an unlawful sale, that is an action at common law of which this Court has no jurisdiction in equity.

C.

The contention that the sureties on Hall's bond, as curator of King's estate, are responsible for his failure to pay his bid of $31,000 for the Mounds plantation is, in our humble judgment, preposterous. This property had been sold by complainants themselves to Mrs. Hall. They certainly cannot be heard to say that they were without right to do so, nor that the mortgage which they agreed should prime theirs, on this property was not a valid encumbrance, nor that the notes which they had received from Mrs. Hall as the price of this property, and which they had recently sold to Col. Buckner, should not be paid out of its proceeds, nor do they assail the validity of these foreclosure proceedings up to the sale, but say that Hall's action in bidding for himself on property which did not belong to the estate of King, and in which the estate of King had no claim or interest, could injuriously affect the sureties on his official bond as administrator of that estate.

As administrator he was no party to the sale, and had nothing to do with it. The estate, as such, had no rights to protect. If he had bid as administrator, the act would have been void. How then can his doing so as an individual affect his sureties? As well might it be said that his sureties would be liable if he had killed a man, or picked a pocket at the sale.

The estate of Mrs. Hall owed the estate of King nothing. True, complainants were interested that her obliga-

tion to them would be executed, and that Hall, as her executor, would so administer her estate as to protect their rights against it, but the sureties on his bond as administrator had neither guaranteed any private contracts of his or Mrs. Hall, or that he would thereafter faithfully administer Mrs. Hall's succession.

In conclusion, we call attention of the Court to the demurrer contained in the answer, and also specially plead.

Art. 3066, of the Revised Civil Code, reads as follows:

"A judicial surety cannot demand the discussion of the property of the principal debtor, *but no suit* shall be constituted against any surety or any appeal bond, nor on the bond of any administrator, tutor, curator, executor, or syndic, until the necessary steps have been taken to enforce payment against the principal."

We submit that in the present case no steps have been taken to enforce payment against the principal. (6 R., 68; 4 A., 486; 13 A., 563; 7 A., 557; 32 A., 991; 35 A., 920.)

The Louisiana authorities cited by complainants' counsel all antedate the statute cited above and incorporated in Art. 3066 of the Civil Code.

They have been dead as authority for fifty years.

The statute was adopted March 16, 1842, and all the cases cited by him are based on the law as it stood before that time. In no single instance has it been held since 1842 that suit could be maintained against a surety until the demand was liquidated and all necessary means to enforce payment against the principal exhausted.

His citation of Ford *v.* Kitridge, 28 A., 113, is still more unfortunate. In that case no surety was sued; the question was simply whether an individual creditor could sue an administrator personally for a debt due by the estate, on the ground of breach of the conditions of the

bond, and without the formality of calling for an account. A majority of the court held it could be done, but there was a strong dissent. The old cases cited by complainants were referred to in that case, as sustaining the suit against the administrator, against whom it was directed personally and not officially.

The case of Payne (7 Wall., 425), we do not consider as applicable to the case under consideration. There, there was no statute; here there is expressly limiting the liability of a party to such a contract.

This action is *ex contractu*, and to enforce the stipulations of an obligation in favor of an officer of the State of Louisiana.

The law says this obligation is to be exigible only on certain conditions. The obligor signed with reference to that condition, it is written into and forms part of the obligation, and is a material part of it. Can this court hold a man by a bond he did not make? Can his obligation be extended beyond its terms or the law?

It must be remembered this is a judicial surety. Under the laws of Louisiana, if anything had been omitted from the bond required by law, the law would have supplied it, likewise anything improperly inserted would be considered not written.

In other words, the bond is construed by the law which authorizes and requires it to be taken (15 A., 551; 29 A., 527).

Can then the plain letter of the Louisiana statute be ignored, and a citizen of that State held to an obligation he never contracted?

The decisions which counsel cites were the cause of the adoption of this law. It had become impossible by reason of these harrassing suits against sureties to make bonds, and the difficulty was remedied in this way. In

every section of the code it has been carefully pursued, and can be found in half a dozen articles.

As complainants have not charged Montgomery with complicity in any of the alleged frauds and maladministration of Hall, we do not consider it necessary to discuss any contested questions of fact in his behalf, referring the Court to Mr. Ludding's brief for a review of the testimony.

We summarize the defence of Mr. Montgomery as follows:

1.—The act of the heirs of King in selling the undivided half of the "Mounds" plantation, was a simple acceptance of King's succession (C. C., 994 *et seq.*, 1002).

2.—A simple acceptance of a succession entitles the heir to free possession and control of so much of the estate as he may demand (C. C., 1056), subject to the right of creditors to demand surety (1011–1012, 15 A., 60; 25 A., 220; 30 A., 93).

3.—The heirs having taken from the administrator of King's estate, the larger portion of its property, are estopped from claiming that the action of the administrator in surrendering it to their vendees was unlawful, because the act was done with their full consent at their request, and they cannot be heard to complain of it.

4.—The agreement of Mrs. L. E. Hall to pay the debts of the estate of King was to and in favor of complainants. They had the right to demand its enforcement. The duty or obligation to enforce it could not rest on B. E. Hall, administrator, because his duties would have thereby become more onerous and the responsibilities of his sureties enlarged without their consent (22 A., 308).

5.—The action of B. E. Hall in bidding at the sale of "Mounds" plantation, when exposed at public auction, in foreclosure of the mortgages imposed upon

it, by Mrs. L. E. Hall, after its purchase from the heirs of King, was not done in his capacity as administrator of King's estate, nor by color of any authority or duty as such.

The estate of King was neither owner of the property, nor a creditor of the estate of Mrs. Hall, and therefore he, as King's administrator, was a stranger to the proceedings.

The complainants were creditors of Mrs. Hall, conditionally, and B. E. Hall, as her *executor*, and *virtute officii*, administrator, was under an obligation to protect their interests, but this obligation resulted from his executorship of *her succession*, and arose long after his appointment as administrator of King's estate, and would have existed had he never been administrator.

It is clear that the sureties on his bond as curator cannot be liable for faults connected with the administration of another estate of which he was executor.

6.—The property remaining unsold by the heirs was subject to sale by the administrator to pay debts of the estate (C. C., 1165 ; Code of Practice, 990 *et seq.*).

The heirs could easily have protected themselves by demanding possession and giving security to pay debts if demanded by creditors (C. C., 1011–1012).

If there were debts of the succession remaining unpaid the sale was necessary, therefore legal, and the sureties are only responsible for an account of the proceeds.

If, on the contrary, there were no debts and the sale was unnecessary, the administrator is liable to an action *in damages*, to the heirs, but neither this Court, nor the court below, could entertain such an action in equity (2 A. 966–503).